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FEDERAL-PROVINCIAL CONFERENCE OF FIRST MINISTERS  
ON ABORIGINAL CONSTITUTIONAL MATTERS

CONFERENCE FEDERALE-PROVINCIALE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

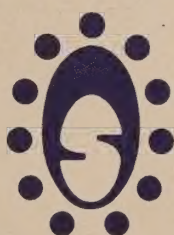
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COMPTE RENDU TEXTUEL


(non révisé et non officiel)

Ottawa  
March 8-9, 1984



Ottawa  
les 8 et 9 mars 1984





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Prepared by the

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AVERTISSEMENT

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FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

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(unrevised and unofficial)

Morning Session of  
March 8, 1984

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance du matin  
du 8 mars 1984





9:17 a.m. / 9h17

THE CHAIRMAN/LE PRESIDENT (The Right Hon. /Le très honorable Pierre Elliott Trudeau, Prime ministre/Premier ministre: Could you please take your seats? Voulez-vous prendre place, s'il vous plaît. Come to order. Is one of the elders going to make an invocation at this point, Mr. Ahenakew? Can we begin with that then? Could the media be a little less pushy, please?

--- Invocation

MR. GEORGES WATTS (Nuu Chah Nulth Tribal Council: Mr. Prime Minister, we have visited your house today. We want to say to you, Mr. Prime Minister, thank you for accepting our chiefs into your house. We want to say to you, Mr. Prime Minister, even though that it took you 15 years to open the doors, to realize that Indian people have a message for the Canadian people, we want to say that for what you have done for the Indian people your name will always be on the lips of all Indian people across this nation because you have brought our chiefs in front of the non-Indian government. Mr. Prime Minister, you have seen another group of Indian people from the west coast of Vancouver Island, people that fed on whales, people that fished for all kinds of salmon, survived on the plants, survived on the trees surrounding them. Mr. Prime Minister, those are the things that we want to keep and those are the thing that we are going to negotiate with the government of Canada. I want that the government of Canada is going to be honest with the Indian people of Canada.

Let us make this house a respectable house so that your people and my people will walk together as one to our destinations, our two destinations are the same destination because our teaching says that.

Mr. Prime Minister, because we have set this foundation we want to give you a gift that our people, that our forepeople used to wear because we were whalers where we came from. We want to present you with a whaler's hat, Mr. Prime Minister.

THE CHAIRMAN: Thank you.

MR. GEORGE WATTS:

Mr. Prime Minister, we want to tell the Canadian people we have also walked in many blizzards. We want to tell you, Mr. Prime Minister, that our decisions must not be made in those kinds of conditions but that we make them on sunny days so that we can all look at the decisions that we make. So, Mr. Prime Minister, may the Great Spirit always guide you and your children. May you have a happy life. Thank you.

THE CHAIRMAN: As I welcome you all to this constitutional conference I want to address my personal and particular thanks to the Indian nations and to the elders, particularly expressing my gratitude for the good wishes that they have bestowed upon me and to thank them for this very beautiful gift which I will always keep to remind me of this day. I am told that on the west coast where they fish and hunt for whales they do not have many snow blizzards. They mainly have rain. We in Ottawa have to adjust to the temperature



we have but I don't promise that on another sunny day I won't go out and have another walk and think things over. (Laughter) You mentioned, Chiefs, about being welcomed into my house. It has now become our house because the constitutional meetings bring us all together, all the provinces, all the territories and the representatives of all the aboriginal people and it is our duty to make this house of Canada one in which we will all be free and happy. We were attempting to do that in 1982 when we proclaimed the Constitutional Act and when we inserted Section 35 indicating our wish and hope that aboriginal rights and status would be recognized and I must confess that many of us did not know exactly how we would be giving substance to that section and it is fitting that the first constitutional conference held after that was to try to give substance, first identification of the rights and then to set in motion the process of defining those rights.

We did that last year by our accord and by the end of May as is provided by the constitution the first amendment to our 1982 Constitution of Canada will be an amendment dealing with the aboriginal peoples. It is fitting and proper that we dealt first with those who were here first.

Mais ce n'est pas la fin des processus puisqu'au cours de l'année il y a eu des réunions de ministres représentant les différents gouvernements, des consultations avec les populations autochtones, de sorte que nous sommes maintenant arrivés au point où nous pouvons commencer de discuter de la question essentielle, celle des gouvernements autonomes des peuples autochtones.

Je crois que sous les différents en-têtes de l'agenda de l'ordre du jour, c'est ce sujet-là qui primera et qui sous-tendra les autres.



So, we will begin this conference in the usual way. I will call on the Secretary of the Canadian Intergovernmental Conference Secretariat, Mr. Stuart MacKinnon, to bring us up to date on the arrangements. There is one tradition that I would like to establish with you that we can continue. It is to have verbatim transcriptions of all these open conferences and if that is agreed we will continue with that practice.

SOME HONOURABLE MEMBERS: Agreed

THE CHAIRMAN: For the rest, Mr. MacKinnon, I hand it over to you, if there is anything you want to indicate to us at this point.

MR. STUART MACKINNON (SECRETARY  
SECRETAIRE: Merci, monsieur  
le président. Je voudrais rappeler à chaque  
délégation que, comme d'habitude, les services  
du secrétariat sont à leur disposition.

In order to facilitate the lunch breaks for the conference, luncheon will be provided each day and today it will be in the Westin Hotel for delegates in the Confederation Room. Tomorrow in the Château Laurier Ballroom.

Also, I would remind all participants of the Chairman's reception in the Delegates Lounge at the close of today's proceedings. Mr. Chairman, if I might add, just for the record an interesting statistic that this is the twenty-second Conference of First Ministers over which you have presided as Chairman and which the Conference Secretariat and its predecessor have served since 1969.

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. MacKinnon.

Well, as Chairman for the twenty-second time, I will repeat my twenty-first other invitations to join with me at the end of the day in the room down the hall here so that we can meet together, all delegates to the conference.

As to the agenda, I have thought it most useful if we could go through the opening statements and then come to the agenda. There is one that has been negotiated and agreed upon, but since then I have had some notices. I have one here again this morning from the Assembly of First Nations suggesting perhaps an inversion in the items of the agenda. I have no objection, but I think it would be useful if we could begin by hearing each other out, listening attentively



and then seeing if there are some or many modifications we want to bring to the agenda.

I will use the authority conveyed to me by this head-piece by making the first statement and then I will call as I did last year on the representatives of the aboriginal peoples and then go to the provincial premiers in the usual order.

A study the government made a few years ago of the conditions of the Indian peoples presented a very sorry state of affairs.

Their life expectancy was ten years less than for the population as a whole.

Violent deaths were three times the national rate. Suicides particularly in the 15-24 age group were more than six times the national rate.

Between 50 and 70 per cent received social assistance.

One in three families lived in overcrowded conditions. Less than 50 per cent of Indian houses were properly serviced, compared to a national level of more than 90 per cent.

I do not think that the latest figures, if they were available, would show any great change. No study of this kind has been made of the Inuit or the Metis but we cannot expect that such a study would lead to very different results.

These statistics illustrate the fact that aboriginal peoples have long been victims of severe injustices which are not tolerable in Canadian society. As a small but significant element of

our population, they have suffered and for the most part continue to suffer acutely from: economic disadvantage; social degradation and political obscurity.

But perhaps the greatest injustice over the years is the hard fact that their condition has been almost totally ignored by the mainstream society including its governments. Both levels of government have some degree of responsibility for the aboriginal peoples, either as citizens or as descendants of the original inhabitants of this country.

Yet in spite of these acknowledged adversities, the aboriginal peoples have managed to survive as identifiable groups in our population. Willpower, patience, determination to sustain themselves in a hostile social environment have enabled the aboriginal groups to persevere in their quest for justice, respect and consideration, those things that they have been denied since the dawn of our Canadian history; and this by an ever-expanding and energetic society with particular pride in its capacity for tolerance and social compromise.

In the past decade or so, the aboriginal groups have succeeded, with encouragement from the government, but largely through their own efforts, in making themselves heard. As their voices have become clearer and as the dialogue has enlarged the disposition of governments to listen has grown. This positive approach to questions long ignored or treated negatively has led us to this conference table and to the agenda we face in this series of conferences.

We started in 1982 by inserting in our constitution Section 35, in which aboriginal and treaty rights were recognized and affirmed. We were aware at the time that these rights needed to be identified and further defined through a constitutional process. My own view is that the problem of identification of rights is well advanced. On both sides we now have a clearer idea of the



subject matters the aboriginal peoples have in mind when they speak about their rights. However, neither they nor we have the same clarity of ideas when it comes to the definition of those rights. And that is not surprising, given the complexity of the subjects identified. We will find appropriate formulations for inclusion in the Constitution when they have emerged with some precision from our ongoing discussions.

In the meantime, we should try to avoid the further complications which frequently flow from misinterpretation or misapprehension of words which have cropped up in the course of our ongoing consultations.

One of these is the word extinguishment, which has long been used in connection with aboriginal rights, whether when referring to the treaties concluded with Indian groups in historic times, or to the more comprehensive claim agreements already reached or in the process of negotiation. It is a word which has attractions for lawyers because of its tidiness, especially in situations where one set of rights is being exchanged or substituted for another. But for the beneficiaries of those rights, in this case the aboriginal peoples, they fear that extinguishment contains a threat of finality or extinction -- a snuffing of the flame of aboriginal culture which the peoples concerned have striven for so long and so hard to sustain.

If we think back to the time when the contact between aboriginal and non-aboriginal peoples began, we know that the rights of the aboriginal peoples were not written down in formal documents, but were being exercised freely by the aboriginal groups found in various parts of the country. As the newcomers began to occupy the country, it was they who gave expression to those aboriginal rights in legal documents of their own devising. The Royal Proclamation of 1763 was one such document and so were the treaties concluded with various Indian nations or tribes. The treaty-making process and the land claims settlement process in which we are now engaged have the same goal, the transformation of uncertain, ill-defined aboriginal rights that have proved to be difficult to enforce, into clearly stated, justiciable, written rights. These new rights rise, Phoenix-like, from the ashes of the old. And so today we are looking for a further formulation or expression of aboriginal rights which will be suitable for inclusion in the Constitution and which will serve as a sound base for the future relationships of the aboriginal groups with others in Canadian society, including governments. Certainly if a better word than "extinguishment" can be found to characterize the process I have just described I will be disposed to agree to its use.

Le terme enchâssement constitue un autre irritant dans nos discussions et il semble souvent faire obstacle à l'avancement de nos travaux. Si on veut asseoir les droits des autochtones sur des bases solides, il ne faut pas commencer par inclure dans nos documents constitutionnels des propositions et dispositions mal définies.

Nous brasserons donc les idées et nous les passerons au crible jusqu'à ce que nous trouvions celles qui répondent à ces exigences et nous découvrirons leur efficacité en les mettant à l'essai, pendant même que nous poursuivons nos discussions.

Une fois fixés sur le contenu, nous aurons peu de mal à les formuler et à leur faire une place dans la Constitution puisque cette façon de faire est solidement ancrée dans la tradition canadienne du consensus et du compromis réaliste.

Avant de suggérer certaines façons de faire avancer les choses dans l'avenir immédiat, j'aimerais m'arrêter brièvement à une autre expression qui a perturbé nos discussions ces dernières années. Il s'agit de l'égalité des droits des hommes et des femmes autochtones.

A mon sens, l'égalité entre les sexes est garantie à tous les canadiens y compris les autochtones par la Charte des droits et libertés mais je n'exclus pas la possibilité d'y ajouter une autre disposition qui soit encore plus claire. Nous en avons, d'ailleurs, incorporé une à la résolution que nous avons adoptée l'an dernier pour modifier la Constitution.



Si nous concluons à la nécessité d'un nouvel amendement, le gouvernement du Canada ne soulèvera aucune objection, j'irais même au besoin jusqu'à en proposer un libellé.

While on the subject of equality I would like to say today that legislation will be introduced shortly to repeal the discriminatory provisions of the Indian Act, and, in particular, Section 12(1)(b). Repeal of this section will mean that status under the Indian Act will not be lost or acquired by marriage.

I would now like to suggest what should be our objectives at this Conference. In the field of rights the major preoccupation of the aboriginal peoples is with self-government. This should be the principal subject of our discussions. But inclusion in the Constitution of rights to self-government cannot alone meet the real, day-to-day, needs of Indians, Inuit and Métis living in their own communities. Therefore another item on our agenda should be the need to build the socio-economic infrastructure the aboriginal peoples need if they are to fulfill their reasonable expectations both as Canadians and as persons of aboriginal ancestry.

Finally there is a third question to which we should address ourselves. Peoples are distinguished from one another as much by language and culture as by history and geography. If our aboriginal peoples are to preserve their heritage and keep their identity in our society, their cultures and languages must be preserved and enhanced. Consequently I suggest that the underlying thrust of our discussions should be directed to these three ends:

First, self-government, a broad subject-heading that can encompass most, if not all, of the

particulars in the prepared agenda.

Second, building the socio-economic infrastructure.

Third, protection and enhancement of aboriginal cultures and languages.

I will now deal briefly with each of these in turn, the first of them being self-government.

There is nothing revolutionary or threatening about the prospect of aboriginal self-government. Aboriginal communities have rightful aspirations to have more say in the management of their affairs, to exercise more responsibility for decisions affecting them. These functions are normal, and essential to the sense of self-worth that distinguishes individuals in a free society.

The Government of Canada remains committed to the establishment of aboriginal self-government, and it is my impression that the provinces are very much of the same mind. And so we are not here to consider whether there should be institutions of self-government, but how these institutions should be brought into being; what should be their jurisdictions, their powers; how they should fit into the interlocking system of jurisdictions by which Canada is governed.

Democratic institutions of government come into being as a result of an evolutionary system of trial and error, by learning while doing. The



aboriginal peoples can look back on thousands of years of managing their own affairs, albeit at a time and in circumstances where government was a simpler matter than it is today. We can also look to a broad range of experience in government in Canada and in other societies. So we do not look forward into the darkness but to a complex of well-lit paths among which we must choose wisely since our choice may bear heavily on our lives and on the lives of generations to come.

Institutions of self-government may well turn out to be different for different communities in different parts of Canada, not just between Indians, Inuit and Métis, but between communities within each of these peoples as well.

So let me deal first with Indian self-government. The Penner Report on Indian Self-Government proposes institutions of self-government for the Indians deriving from both legislated delegation of federal powers and constitutional entrenchment. The government's response to the report envisages framework legislation to provide for self-governing institutions by delegation of federal powers. There will be consultations between the government and representatives of the Indian people to assist in the development of the proposed legislation. Parallel discussions will take place with provincial governments since they have their own responsibilities toward the aboriginal peoples. Moreover, though the government can, within

constitutional limits, delegate some of its responsibilities to aboriginal institutions of self-government, such delegation is bound to have its effect on the provinces. As we develop federal enabling legislation for early introduction in Parliament it is my hope that the provinces will develop complementary legislation to help ensure that the aboriginal governments mesh effectively with other governmental institutions.

To ensure that the work of preparing that federal framework legislation proceeds at an active pace, I have taken responsibility for its future development myself. The Penner Report recommended an intermediary, a Minister of State reporting to the Prime Minister. I hope that I can indicate the importance of this process of negotiation and drafting by having it reported to me personally.

I now turn to the subject of self-government for the Inuit. The Inuit are to be found in the provinces of Québec and Newfoundland and in the Northwest Territories, in both the western and the eastern Arctic. The provisions of the James Bay Agreement respecting local and regional government should meet the reasonable aspirations of the Inuit in Northern Québec. The Inuit of the western Arctic have the same expectations of settlement there now agreed to in principle. The Inuit living in Labrador also look to the land claims settlement process to provide the needed governmental institutions.

The great majority of the Inuit, however, who live in the eastern Arctic, are also engaged in the land claims settlement process. In the matter of self-government their aspirations, however, are very different. They look to division of the Northwest Territories setting up in the eastern part they call Nunavut a public or non-ethnic government on the model of a territorial government.

The Government of Canada has agreed in principle to the division of the Northwest Territories and is ready to give favourable consideration to those Inuit proposals.



Finally, let us look at self-government for the Metis. The provincial governments are mainly responsible for the Metis. While in the view of the federal government they do not fall within the definition of the word "Indian" in section 91(24) of the Constitution Act, 1867, the federal government accepts a measure of responsibility to them as disadvantaged peoples. We also recognize them as aboriginal peoples in the 1982 Constitution of Canada. At this conference we must come to grips with the question of the complementarity and the complementary responsibilities of the federal and provincial authorities and strive to resolve it in the interest of the Metis themselves.

In approaching the subject of self-government for the Metis, if we look to the route of legislated delegation of powers, the provinces and the Metis people might wish to consider whether the necessary framework legislation should not be put in place by the provincial governments. Any necessary complementary legislation could then be introduced in the Parliament of Canada.

I acknowledge the importance the aboriginal peoples attach to self-government and I understand why. But we should remember that self-government is not an end in itself. It can be no more than a means to the attainment of the political and social objectives of a people.

J'en arrive donc à la deuxième question qui doit retenir notre attention, la création de programmes et de services sociaux et économiques pour les peuples autochtones.

A mesure que les autochtones prendront leurs affaires en mains dans les années à venir, les gouvernements devront collaborer avec eux à la mise en place d'infrastructures socio-économiques permettant de répondre à leurs attentes raisonnables comme citoyens canadiens.

Pour y parvenir, il faudra que toutes les parties intéressées fournissent un maximum d'efforts. Les gouvernements provinciaux devront s'acquitter de leurs obligations envers les autochtones à titre de canadiens résidant sur leurs territoires.

Le gouvernement fédéral devra, pour sa part, remplir ses obligations particulières envers les descendants des premiers habitants du pays et les chefs autochtones devront, eux aussi, participer à la conception et à la gestion de ces programmes et services et ainsi contribuer à garantir qu'ils répondront adéquatement aux besoins de leur communauté.

Des habitations, des écoles, des services sociaux, des routes, des services d'aqueduc, des systèmes d'égout, d'électricité: voilà autant de services essentiels à la santé, au confort et au développement économique de toutes les collectivités et auxquelles donnent droit le titre de citoyen et de résident canadien.

A mon avis, aucune excuse ne permet de continuer à les refuser à tant de nos compatriotes autochtones et, comme en toutes choses, je pense que nous devons d'abord aider ceux et celles qui en ont le plus besoin.

Pour y arriver, il faut d'abord mieux comprendre les services et les programmes qu'offre actuellement le gouvernement fédéral et les provinces, leur efficacité et les lacunes qui restent à combler.

J'ai donc demandé au sénateur Austin, ministre d'état au développement social, d'assumer cette tâche, de concert avec les gouvernements provinciaux et les représentants des peuples autochtones.

La protection et l'affermissement des cultures et des langues autochtones constitue la troisième question à l'étude.

Les peuples autochtones ont tout à fait raison d'être profondément inquiets de la survie de leur culture et de leur langue, sans oublier leurs arts, leur religion et, par dessus tout, l'instruction de leurs enfants. C'est une préoccupation que tous les canadiens peuvent facilement comprendre.

Une fois en possession de leurs propres institutions gouvernementales, les peuples autochtones disposeront d'importants remparts pour assurer la protection de leurs cultures et de leurs langues.



On peut d'ailleurs concevoir les programmes et les services sociaux culturels et économiques de façon à protéger et mettre en valeur les cultures et les langues autochtones.

Je pense que cette responsabilité nous incombe à tous. Nous marquerions de véritables progrès si nous faisons avancer les trois questions du droit de s'administrer eux-mêmes, du développement socio-économique et de la préservation de la culture et de la langue de nos peuples autochtones et, pour y arriver, je propose que nous tentions aujourd'hui et demain de parvenir à un accord par lequel nous nous engagerions à modifier la Constitution.

Le projet d'amendement que je désire vous soumettre et dont le texte vous sera remis à la fin de mon allocution prend la forme d'un engagement, un engagement en quatre points, and you will find this on page 7 of the English text.

Premièrement, préserver et affermir le patrimoine culturel des peuples autochtones. Deuxièmement, respecter la liberté qu'ont les peuples autochtones de vivre selon leur propre tradition et d'instruire leurs enfants dans leur propre langue, de même que dans l'une ou l'autre ou dans les deux langues officielles du Canada.

Troisièmement, inclure dans la Constitution le droit des peuples autochtones à s'administrer eux-mêmes par leurs propres institutions; quatrièmement, négocier la nature, la compétence et les pouvoirs de ces institutions et leurs modes de financement.

Le projet d'entente contient en outre un nouvel amendement concernant l'égalité, s'il s'avérait nécessaire d'en apporter un. Il comporte également un engagement politique à revoir tous les aspects des programmes et des services offerts aux peuples autochtones.

Les résultats de cette révision pourraient être présentés à la conférence de l'an prochain.

My predecessor, Mike Pearson, once said that he'd had as many lives as a cat. I have had a few myself and I look forward to several more but in other spheres.

HON. WILLIAM G. DAVIS (Premier, Ontario): You are sure?

THE CHAIRMAN: I am sure.

So this is the last time that I will address this assembly from this chair and I didn't know the figure of 22 that our secretary has mentioned earlier in his statement but it makes me feel that I have been a Chairman who believes in a great deal of consultation and not any kind of confrontation.

If only for this reason, I would like to say a few words to the aboriginal peoples of Canada, not so much as Prime Minister or Chairman of this conference, but rather out of my own mind and heart as they talked to me this morning after the prayer which began this meeting.

Together we have embarked upon a journey that can lead you into full partnership in Canada, secure to you your own place in Canadian society with your own institutions of self-government, provide you with the infrastructure you need if you are to achieve economic success and protect and enhance your cultures and languages. I am proud to have walked the first mile of this journey with you. Others will take my place and continue upon the journey with you for there can be no turning back. The constitution guarantees you that.



But in the end your fate and the fate of your children's children are in your own hands. You are the custodians of an ancient spirituality. Your lives are rich in culture and tradition. The extended family that is the tribe or community can be your strong support.

Take advantage of all that a modern society can offer, but for your soul's sake stand on your own feet, on the sure foundation that spirituality, tradition and family have laid.

Make God go with you on your long journey.

I will now turn to the second in our round of opening statements and call on Chief David Ahenakew to make the first statement.

CHIEF DAVID AHENAKEW (Assembly of First Nations) (Speaking in native language).

Thank you, Mr. Prime Minister. I will not say anything about what happened preceding the conference this morning because I am sure you realize and agree that Simon Lucas, George Watt and a group of the nations that performed the ceremony for us this morning, it was not only meant for the Indian nations of the country, but for all nations that live in this great land of ours. I noted with a great deal of interest that you put forward a number of specific proposals each of them will require -- and each of them deserve very careful consideration. We will need to evaluate the degree to which each of them responds to all our efforts over the past year, as well as the degree to which they respond to the

positions and expectations of First Nations. I will require the views and counsel of the First Nations government leaders who are here so that we can respond in a carefully considered, constructive way rather than with a simple immediate reaction.

By early this afternoon we expect to be able to identify those proposals which hold the potential for early resolution, those which require more work and those which appear to present the greatest difficulty.

A month ago nearly 500 chiefs and other leaders of the First Nations met in Toronto in a special assembly to ratify a united position for this meeting with you. I welcome this opportunity to put this position before this forum and before the Canadian people.

Although the problems which Canada and First Nations now face may have been created by other generations, the people of Canada must deal with them today. Neither Canadians nor the international community find colonialism in any form attractive. Suppression of human rights is not acceptable. My mandate is to continue a process which is designed to allow Canada, Canadians to be just in their time.

It is a process through which the balance can be restored between our original title and the Crown's assumed title. Our rights flow from our title to our traditional lands. Our rights are recognized internationally as belonging to us as free, distinct, self-determining peoples. This is a process.

through which these rights can be given special recognition, especially the right to self-government.

We are here today, Prime Minister and Premiers, joined in the common purpose and intend to redress inequities, compensate abuses and change a system which is inadequate, unworkable and unacceptable. We want an harmonious accomodation with the Canadian confederation, a mutual accommodation recognizing our political institutions for what they are, a distinct order of government in Canada. Any alteration or limitation of our rights, our sovereignty, our territory, can be made only with the true formal and informed consent of the First Nations concerned. Any changes which are made in the Constitution of Canada must not affect the rights of any First Nation without its express consent. Each First Nation has the inaliabile right to govern itself, to control its traditional land and resources, its membership and its political, economic, social and cultural institutions based on our original sovereignty granted to us by the Creator on our historical continuity as peoples, on the relationship of mutual respect in the Royal Proclamation of 1763 and the treaty process and on the recognition of our rights in the Constitution of Canada.

The federal trust responsibility means that Canada continues to have a special responsibility to protect the rightful jurisdiction of First Nations and to ensure that First Nations have sufficient land and resources to sustain our political, economic, social and cultural institutions for the First Nation's sovereignty has a special meaning which should make no Canadian,



objective Canadian, nervous. To us it means full economy and self-determination within Canada and the Canadian Constitution. It means having full control over and responsibility for our lives and our future. It means having the power to fully exercise our human potential as peoples of the First Nations, to contribute to a better Canada and a better world.

Canada has certain obligations towards us. As long as Canada uses our traditional lands and our resources, Canada must continue to compensate us for the use of those lands as well as continue to protect our jurisdictions. Last year the leadership demonstrated by you, Prime Minister, and by others contributed significantly to assuring that we left here with our agenda set for the ongoing constitutional conferences. We left here with the direction for the future set, that is, aboriginal rights recognized in a forum including aboriginal title. We left here with a commitment to contemplate a broad range of options. All of this added to and reinforced the judgment of Lord Denning, one of the great jurists of this century, who had ruled that our rights and freedoms have been guaranteed by the Crown in respect of Canada for as long as the sun rises and the rivers flow.

In summary, it can be said that at that first conference on treaty and aboriginal constitutional matters, Prime Minister, the door was opened. Since then significant gains have been made in the process of educating federal and provincial officials and Ministers. We have been encouraged to see some change in attitude on the part of some provinces and we have seen signs of increased support coming from others.

One of the other positive things that has happened has been the increased recognition of the differences in history, aspiration and approach which exist between the First Nations and the Inuit and the Metis. Our guarantees must be specified as applying to First Nations. However, there has also been frustrations and disappointments with the performance of federal and provincial officials and Ministers in the multilateral process. For the most part the year has passed without them having said anything specific about their positions on various agenda items. We have often felt treated in the process like colonized and subjugated peoples who are some sort of a social problem needing the therapy which officials indeed seem to think assimilation would provide.

Federal and provincial participants often appear more preoccupied with the process than with the substantive issues. Federal officials claim that there are views which cannot be reconciled. They say we have reached an impasse and they say the alleged impasse is the fault of the First Nations.

We are met at the land claims table by federal negotiators who insist on the extinguishment of our rights and our title. These officials, the courts, the negotiators, all operate within a much narrower framework than the broad options we agreed to explore a year ago. These officials must be subjected to political direction. Canadians want basic decisions made about the future of the country. They must be made by their democratically-elected representatives, not by bureaucrats. Political decisions must be made here at this table. Political solutions must be found rather than legal solutions. You must ensure that this multilateral constitutional process is enhanced by the land claims and treaty-making processes, as well as by the legislative, judicial, international processes that are all going on concurrently.

This constitutional process and the search for mutual accommodation would be enhanced and the stated sincerity of some of the provinces would be made more credible if they would call a halt to all the court actions with which they are seeking to erode and extinguish our rights or, at least, call a halt while you are still engaged in this process through which you say you seek to clarify, enhance and entrench our rights. Other processes should not be allowed to limit the discussions we have at this table. We cannot be limited by someone else's timeframe to resolve these problems. Our rights cannot be subject to arbitrary deadlines.



The process of realignment to accommodate First Nations in Canada must continue until it is satisfactorily completed. We cannot agree to a process, to a process as proposed for accelerated negotiations or pilot projects with individual communities. We cannot agree to any proposed development of principles with only one or with only a few First Nations, principles which would then be imposed on all other First Nations. We believe that we are all here to find the mutual accommodation necessary to reaffirm the recognition of our rights.

For our part we are seeking to guarantee and to entrench explicitly our aboriginal title, our aboriginal rights, our treaties and our treaty rights. International law recognizes that territories such as North America which are inhabited by distinct nations having a social and political organization are not to be treated as uninhabited territory awaiting European discovery. As recently as eight years ago the World Court condemned using such a concept to justify colonization and yet officials tell us that Canada legitimizes its claim to title to our traditional lands and the extinguishment of our inherent rights by the use of this claim. We do not believe that reasonable Canadians will tolerate their officials telling us that the only right we have is the right to surrender, to surrender our inherent rights and our traditional lands. We believe that Canada and Canadians will wish to act

with justice and goodwill in regard to aboriginal title, aboriginal rights, treaty rights and our internationally-recognized right to self-determining First Nations contributing to a better Canada. We believe too that Canada wants to be guided by the principles of the international covenants on human rights in its relations with the First Nations. Using these principles would enhance our relationship, making it possible for us to contribute as First Nations to the prosperity of this great land and all her people. We are not asking for handouts. We are not interested in self-government merely as a means to strengthen our cultural identity. We will not be accomplices in the perpetuation of an unjust and ineffective system. We are not interested in "tinkering" within existing arrangements. Cosmetic adjustments will not serve. We must have change and that change must be real. Change that is both felt and seen by our communities. The federal government cannot give us self-government. It has never been yours to give. It has always been ours. You can recognize it, enhance it, facilitate it, but if you were to give it to us or devolve it to us or permit it to us it would not be self-government.

We believe, Prime Minister and Premiers, that it is important to set some benchmarks so that tomorrow afternoon we can examine whether the federal government and the provinces have succeeded in grasping the opportunity presented at

this conference. We recognize the need to set our sights on both near horizons and others that are not so near. The near horizon is tomorrow afternoon. The further horizon is 1987 and if you and the Premiers achieve the challenges of the near horizon we are confident that a re-directed multilateral process can set and achieve the goals of the longer time frame.

From our point of view one benchmark, a fundamental goal we would judge this conference by would be agreement on the substantive amendments for the explicit entrenchment of aboriginal title, First Nations self-government, aboriginal rights, treaty rights and the status of our treaties. There are certain treaties which must be re-negotiated. Political credibility as well as good faith would be demonstrated by the provinces if they would agree to a moratorium on all legislative, regulatory and judicial actions relating to hunting, fishing and trapping which could interfere with our aboriginal and treaty rights entrenched in the Constitution of Canada.

There is one urgent matter, Prime Minister, which is relevant to this process but which does not require a change in the Constitution, not even a change in legislation. The change can be accomplished with a stroke of a pen. It is solely a matter of federal policy. Many view the federal presence here as tainted by the current land claims policy. I refer to the policy of extinguishment of aboriginal rights which we are required to accept if we want settlement of just claims. The special all-party Parliamentary Committee unanimously



criticized the injustice of this policy. We ask you to renounce it now. Eliminate the contradiction to ensure that no one can view the federal presence here as hypocritical.

The current policy has many problems. One of the parties unilaterally determines the rules and conditions which the other is obliged to follow. The process is managed by the federal government, rather than by a neutral or independent party. Not only is the federal side the advocate of its own interest, it is also judge and jury. The potential for accusations of conflict of interest is obvious. It appears policies can be changed as the result of a whim or political intervention and that there is no mechanism for review. Government officials decide unilaterally if a claim is valid. The rationale for their decisions remains confidential and there is no mechanism for appeal. Even though the cards are stacked in favour of the federal government, very few claims have been settled and your officials estimate the process will go on throughout the next century. Settlements are final for the Indians involved but the federal government can re-open the settlement whenever it wishes. Political institutions and the concept of self-government cannot be examined in the claims process.

Most serious is the question of extinguishment. The rules give the two parties totally opposite ground. All residual aboriginal

rights not specifically recognized are extinguished forever. However, the federal residual rights are not extinguished and Canada gives up only what is specifically mentioned. The situation is made all the more ironic and the colonial mentality of the policy is even more obvious when we realize that these are still Indian lands, not yet Canadian lands that we are talking about.

With that policy abandoned, Prime Minister, the First Nations can proceed to work with your government to develop a new claims settlement policy which is mutually acceptable. We recognize and accept that third party rights which do not seriously affect the political, economic and cultural survival of the First Nations concerned should be dealt with equitably. We look to you for a statement on this matter during the course of this meeting.

Prime Minister, we expect that you will take strong and principled leadership in entrenching and protecting First Nation rights to self-government in the Canadian Constitution. In this way you can fulfill the primary piece of unfinished business in uniting all Canadians, all the peoples of Canada. I believe that most, if not all of you in this room, sincerely desire a solution that is equitable and reasonable. All that remains is to determine whether the political will, the good faith and the courage needed to achieve that result is present.

If you, Prime Minister, and the  
Premiers are guided by genuine considerations of  
justice, understanding and trust, you will be  
successful.



If you are able to give leadership to Canada, to honour its commitments and obligations to the First Nations then Canada will stand alone as a model to the world.

It is with optimism and goodwill that I look forward to the dialogue and positive resolution which these two days will produce. Thank you.

THE CHAIRMAN: Thank you.

I now turn to the ICNI and give the floor to Mr. John Amagoalik.

MR. JOHN AMAGOALIK (Co-Chairman, Inuit Committee on National Issues): Mr. Prime Minister, Premiers, members of the territorial governments, fellow Indian, Inuit and Metis leaders and fellow Canadians. The Inuit Committee on National Issues represents Inuit of Canada on constitutional matters. We represent one people who occupy and use a vast area which stretches from the Beaufort Sea to the Atlantic and from the upper reaches of the Arctic Ocean to James Bay. We are here today to identify the rights of the aboriginal peoples of Canada for inclusion in our constitution, but we are also here for another fundamental reason.

The history of the relationship between governments and native peoples is a tragic one. We do not want to dwell on these past failings. We are here today because we look to the future. We are seeking to develop a new relationship with government; one based on trust and mutual respect.

We are at this conference to seek consensus on our rights which will be entrenched in the

Constitution. The intent of this conference, according to Section 37 of the Canada Act is to entrench our rights. During the preliminary meetings leading up to this conference we have been told that no constitutional amendments will be agreed to at this conference. We find this impossible to accept.

With the extensive agenda for this conference embodied in the 1983 Accord we must not lose this opportunity to achieve the political consensus necessary for constitutional elaboration of our rights. We understand that reaching this kind of consensus is not a simple matter and compromises may inevitably be necessary but each one of us here has the responsibility to make this process work.

Ontario and Quebec have a special responsibility, for as you well know, according to the amending formula the support of either Ontario or Quebec is at a minimum necessary for any constitutional amendment to take place. Ontario has to date participated and signed the 1983 Accord. If Quebec is serious about their respect for aboriginal rights and their desire to entrench them it should exhibit this resolve by signing an accord either together with all delegations here or separately with the aboriginal peoples, followed by an appropriate resolution at the National Assembly.

I listened with interest and optimism to the debate in the House of Commons during the latter part of February as speakers from each of the three parties stood and spoke

to the issue of French language rights in Manitoba. I heard from Mr. Axworthy that justice must be done for these people and from Mr. Mulroney that the French of Manitoba were a founding people and as such had a claim to language and culture higher than the linguistic groups which followed. I also heard from the NDP spokesperson many of the same views. I am happy to see such a spirit of unanimity and depth of understanding brought to bear on this issue. I would hope that a similar spirit and awareness can be brought to bear on our language issues.

In Inuktitut. (Translation)

In the proceedings of the Legislature of the Northwest Territories and the third language at this conference. Canada is a nation which respects rather than assimilates its minorities. We feel Canada's strength lies in its cultural and linguistic diversity.

Some initial progress was made at the last constitutional conference with respect to the entrenchment of our rights as aboriginal peoples. Some governments have broken free of past prejudices and fears and have discovered that our aspirations as Inuit to be self-determining are not as threatening or as unworkable as some would believe. In this regard, we would like to commend Manitoba, the Northwest Territories, Ontario and New Brunswick on their important contributions to this important constitutional process. We would also like to commend



Premier René Lévesque for his commitment to negotiate greater self-autonomy for Inuit in northern Quebec.

The Prime Minister also has to be commended for his efforts towards ensuring meaningful involvement of Canada's aboriginal peoples in the constitutional process and we thank the Prime Minister for bringing matters to the present level of possibility. However, the federal government has shown a lack of initiative and leadership in the process leading up to this conference.

The Inuit have done much work on self-government. In the Northwest Territories we have laid the groundwork for the creation of a new territory which would effectively meet the self-governing needs of its residents. The main motivations for Nunavut have been the desire of Inuit to manage and protect our lands and resources in the face of industrial development pressure and to restore stability to our society. On November 26, 1982, the federal government announced its acceptance in principle of the creation of Nunavut. This has been re-stated by the favourable words of the Prime Minister this morning. The NWT Legislative Assembly and the people of the NWT have already voted to accept division of the Territories and Nunavut is not merely a theory or an elusive goal. It is a practical and well-developed proposal for a government which would meet the needs of a people. Nunavut government would be elected by all permanent residents of the

the Territories but because Inuit constitute the vast majority of the population the government would be responsive to our needs, our language, culture, values and ways of doing things. Jurisdiction would include such areas as education, social services, local economic development, local government, housing, wildlife management and public works. It has also been proposed that a revenue-sharing program and shared responsibility for managing resources on the offshore be agreed between Ottawa and Nunavut.

Discussion of the offshore raises the issue of sovereignty. Sovereignty is a concept with which Inuit are well acquainted. When Canada was intent upon establishing its claim to sovereignty over the High Arctic, certain of our people from northern Quebec and north Baffin Island were relocated to Grise Fiord and Resolute Bay to justify and solidify this claim. Canada's Arctic Waters Pollution Prevention Act which was enacted to justify Canadian jurisdiction in the High Arctic recognizes the significance of Inuit use and occupancy of the Arctic.

On the international level, Inuit have accepted an international organization called the Inuit Circumpolar Conference. The Inuit Circumpolar Conference has non-governmental organization status at the United Nations and has through its various initiatives internationally assisted Canada in broadening its own horizons. The Inuit Circumpolar Conference is also in the process of assisting Canada and other nations with circumpolar interests in the identification of pan-Arctic problems on policy issues. Through the

ICC, Inuit of Canada, Alaska and Greenland meet regularly to discuss Circumpolar issues of international significance such as wildlife protection and management, environmental issues, economic development and cultural exchange.

I will now introduce my colleague and the new Co-Chairman of the Inuit Committee on National Issues, Zebedee Nungak. He will continue with our opening remarks.

MR. ZEBEDEE NUNGAK (Acting Co-Chairman, Inuit Committee on National Issues): Thank you. John Amagoalik referred to the Nunavut proposal for the creation of a new territory. Those of you who questioned the idea of aboriginal people running their own affairs may be interested to know that Inuit in northern Quebec have a non-ethnic regional government called the Kativik Regional Government which has responsibilities for an area one-third the size of Quebec.

(Translation) Inuit do not need experimental community negotiations as proposed by the Minister of Justice. We have conducted our negotiations. We have years of experience and contrary to the beliefs of the Minister of Justice we are familiar with the principles upon which we as Inuit would base self-government. One of the things we have learned from our original government experience is the importance of secure funding of all government operations. We continually find ourselves depending upon budgets of Quebec which are subject to arbitrary and unilateral



cuts. Control of these budgets means control of regional government initiatives.

A government without full control of its funding lacks the autonomy necessary to be a full responsible government. A government without a sound economic base and the power to generate its own revenues as well as the power to decide its own spending priorities lacks the essential elements of self-government.

We would like to make some fundamental improvements to our government and we intend to negotiate the powers.

With regard to the idea of native people controlling their own affairs the government of Canada is to be commended for its action in initialling the final agreement with the Committee for Original Peoples Entitlement. It has been a long, hard struggle for the Inuvialuit, the Inuit people of the western Arctic to reach this point and ICNI urges a speedy completion of the land claims process which the Inuvialuit have undertaken.

Turning now to Labrador, the Labrador Inuit do not presently have any forum in which to negotiate detailed provisions regarding self-government. The federal provision that land claims negotiations are not to be used for purposes of providing political development, the short list approach to claims negotiations and the lack of progress being made in preliminary talks between Canada and Newfoundland on jurisdictional responsibilities have all prevented the Labrador Inuit from pursuing self-government. After the Moravians established communities on the Labrador coast on the late 1700's a system of self-government developed in which Inuit elders ran the affairs of the communities according to customary law. This was only superseded with the influx of government institutions such as the R.C.M.P., wildlife officers, social workers and community councils after Newfoundland joined Confederation. The Labrador Inuit have learned that it is easy for aboriginal and historic institutions

and methods of self-government to be eroded. That is why we believe that the right to self-government must be constitutionally entrenched. Many people ask why we need self-government. We are Inuit and we have accepted the fact that we are part of Canada but to remain a distinct people we need adequate protection and promotion of our language, our culture and our economies. We must have complimentary tools and structures to assist us. The most significant tool in this respect is self-government. Self-government is the exercise of effective control by a people over matters directly affecting their lives. As a distinct people within Canada Inuit can only continue to develop and to avoid assimilation by exercising adequate powers of self-government. Moreover, our self-governing institutions will provide a proper balance between the rights of the individual and those of the collectivity.

A second question which is often asked of us is why we need constitutional recognition of our right to self-government. In the past our fundamental rights have not been respected. French and English language rights are protected in the constitution along with other rights that Canadians feel are so fundamental that they cannot be entrusted solely to legislation. Similarly, the right of self-government is of such fundamental importance to aboriginal peoples that it requires constitutional entrenchment. As evidence of this we offer the following: firstly, the original aboriginal rights



clause was dropped, shuffled out from the constitutional resolution in November, 1981. Secondly, when the clause was reinstated it was watered down by the inclusion of the word "existing," a word whose meaning has never been explained to our satisfaction by its authors. Thirdly, federal and provincial governments continue to insist on extinguishing our rights in the land claims process. This is a blatant contradiction. On the one hand Canada recognizes and affirms our rights in the highest law of the land, yet on the other hand it forces us to cede, surrender, give up, relinquish, quit claim and renounce our aboriginal rights through the land claims process.

Mutual respect and trust have not always existed between the aboriginal peoples and governments and while we see progress being made it is essential that our rights be elaborated and protected in the constitution. One immediate protection we seek is a specific clause on enforcement of our constitutional rights. We shall be addressing this issue in the course of the conference discussions.

To conclude two issues have dominated the preliminary meetings leading up to this conference. The first is self-government and the second relates to the equality issue. We have suggested that equality be discussed later in the agenda as it is an issue carried over from last year's conference. It is one upon which consensus should not be difficult to reach. It is appropriate that during International Women's Week we demonstrate our resolve to respect equality rights. So we are all gathered here today to take

part in a process of identifying the rights of the aboriginal peoples of Canada for inclusion in our constitution and this is not to be done merely through the generosity of governments which tends to be non-existent in those times when native peoples take the liberty to disagree with those who wield the political power. Instead our goal is through co-operation to develop a new relationship between government and Inuit which will allow Inuit their rightful place in Canada. I will now turn to John Amagoalik.

MR. JOHN AMAGOALIK: Thank you.

Mr. Prime Minister, over 15 years ago in the context of Canada-Québec relations you said "It is not the concept of the nation that is regressive. It is the idea that the nation must necessarily be sovereign." We agree with this view and we hope Canada is now prepared to recognize the aboriginal relations of Canada. Thank you.

THE CHAIRMAN: (Speaking in Inuktitut)  
Thank you, Zebedee Nungak and John Amagoalik.

MR. JOHN AMAGOALIK: Thank you.

THE CHAIRMAN: I now give the floor to Mr. Chartier of the MNC. I am told the usual order would ask me to call on Mr. Louis "Smokey" Bruyere of the NCC.

MR. LOUIS (SMOKEY) BRUYERE (President, Native Council of Canada): Thank you, Mr. Chairman. First Ministers, fellow delegates, in keeping

with your request, Mr. Chairman, our opening remarks shall be brief. Mr. Harry Daniels, Western Vice President of the Native Council of Canada will be sharing this presentation with me. We are joined in this by our Metis and non-status Indian delegates from our provincial organizations and the two northern territories, seated here behind us. Our Council also benefits from the full participation of the Native Women's Association of Canada.

It was just a year ago that we all signed an accord establishing an ongoing process that would lead to the development and entrenchment of a Charter of Native Rights in the Constitution of Canada by 1987. Over the past 12 months in keeping with the terms of the Accord a substantial number of meetings have taken place and some progress has been made. The point has now been reached, we believe, when the First Ministers must intervene to restore to the process a renewed sense of purpose and direction.

We look primarily to the federal government to play a clearer and more innovative role in this conference itself in the months immediately ahead. For openers, Mr. Chairman, we want you on behalf of your government to make a clear statement to this conference accepting federal responsibility for all aboriginal peoples. We want a commitment that there shall be equality of treatment of the aboriginal groups not only as between sexes but as between the three aboriginal groups themselves. The efforts of Ministers and officials of government and those of



our own native peoples have consistently bogged down during the past year because of uncertainties about the position that your government, Mr. Chairman, would be taking on these issues.

It is not our place to give our Prime Minister a history lesson, but I do want to emphasize to you, Mr. Chairman, and to others here that our deliberations a year ago and over the past 12 months floundered on our different understanding of the historical meaning of the word "Indian" as found in Section 91(24) of the Constitution Act, 1867.

That clause assigns exclusive federal responsibility for Indians and lands reserved for Indians. Over the years the Parliament of Canada has passed successive Indian Acts in which the word "Indian" was much more narrowly and restrictively defined than was originally intended in Section 91(24) of 1867. Indeed, Mr. Chairman, for whatever reason every government since Confederation has attempted to shrink the definition of aboriginal people. This has given rise to a bewildering array of terms to describe various categories of aboriginal peoples. These include treaty Indians, non-treaty Indians, status Indians, general list Indians, non-status Indians, registered Indians, Metis, halfbreeds, mixed bloods, among others. Whatever their origins, these descriptions of native people have been a divisive and disruptive force in the native community. They have bedevilled our people and befuddled all other Canadians.

While the new constitution describes aboriginal peoples as either Indian, Inuit or Metis, our groups have consistently and unanimously told your



governments we are prepared to work out and adopt guidelines that will clearly describe our own membership. We have insisted, indeed, that none but ourselves can decide who we are.

We have also stated that we categorically reject as the basis of our identity narrow nationalism or arbitrary geographic criteria. Our constituents live in every part of Canada. They are the product of the varying phases of historical development which characterized this country from the earliest colonial period to the present day. We believe any definition which excludes large numbers of aboriginal people will deny rights and perpetuate division.

What we need now is for the federal government with the concurrence of the provinces to unequivocally accept that Section 91(24) reference in the Constitution Act, 1867 embraces all aboriginal peoples, not simply those covered by the narrow and unjust definitions of the Indian Act.

The provincial and territorial representatives have understandably been reluctant to negotiate candidly and forthrightly about sharing powers and resources when they have no way of knowing what they might be getting into. For our part we cannot know if their caution is based on fear of what it might cost them or whether in fact they reject the very concept of aboriginal rights and title.

We appreciate that some progress has been made during the past 12 months. The federal

officials for instance have told us that pre-Confederation treaties signed in Ontario and in the Maritimes are understood to be included in Section 35(1) of the Canada Act. We look forward to having this clarification entrenched specifically in the constitution at the appropriate time.

The larger frustrations remain with us and we bring them to this table. We think quite frankly that you, Mr. Chairman, are in a unique position to achieve a real breakthrough. You could start by indicating just how far your government is willing to go in solving the judicial question. How prepared are you to commit your government at this conference to entrench specific guarantees in the constitution regarding aboriginal rights and title, and aboriginal self-government along with the equality of the aboriginal peoples?

In the past 12 months your officials, Mr. Chairman, and even your ministers, have been rather quick to insist that the aboriginal groups clearly and fully disclose their positions in great detail on each of the issues before us. Provincial and territorial representatives were then asked by your government to respond and they became embroiled in the process so to speak, but always the federal representatives held back acting more like referees than players. Genuine progress was next to impossible. We are, therefore, asking you at this juncture to place your cards on the table too so that this conference can go on to productively deal with the specific agenda items that are before us.

Before I ask Mr. Harry Daniels to comment on several other matters, Mr. Chairman, I want to take this opportunity to publicly thank you for your services to us as native Canadians over the past 16 years. The aboriginal cause has been

advanced under your leadership. It now remains for the rest of us to continue the progress that your actions have made possible. With that, Mr. Chairman, I will turn it over to our Vice-President, Mr. Harry Daniels.

MR. HARRY DANIELS (Vice-President, Native Council of Canada): Thank you, Smokey. Mr. Chairman, since we are obviously going to be dealing comprehensively with the agenda issues over the next two days, I don't intend to discuss them in any detail at this time. But as the senior Native Council of Canada representative at most of the officials or ministers meetings over the last months, I experienced on a daily and sometimes hourly basis the concerns our president has expressed.

These concerns, and we realize they were felt on every side of the table, stem from the simple fact that we seemed to lose sight of the final objective of the whole process; the constitutional entrenchment of the aboriginal rights of Canada's aboriginal peoples.

Far too often much of the dialogue at these meetings was more concerned with whether or not rights should be entrenched rather than how they should be entrenched. Technical and bureaucratic apprehension over jurisdictional responsibilities too frequently obscured the simple fact that we are trying to assume our rightful place in the constitution as the aboriginal people of Canada.

It is my hope that this meeting will



serve the purpose of putting the process back on the track to constitutional entrenchment. We can begin to do that by picking up from where we left off last year with the entrenchment of the equality clause.

There is no doubt in my mind that the present wording is not that which the NCC agreed to, nor does it serve the purpose we intended. We are told by your own Justice Department that the equality clause does not reach discriminatory sections in the Indian Act or any other legislation that might be passed by federal, provincial or even aboriginal governments in future.

There seems to be a desire on the part of many governments around this table to confine this issue to equality among or between the sexes. We respectfully submit that that is both erroneous and dangerously misleading. As a reading of last year's transcript demonstrates, our intent was clearly stated by both the Native Council of Canada executive and the executive of the National Native Women's Association. Our purpose was to establish equality of rights between aboriginal peoples as well as male and female persons. Anything less is simply not realistic.

In terms of aboriginal title and aboriginal rights, we are pleased that the federal government considers that the present reference to aboriginal rights in the constitution includes the concept of title.

We hope, therefore, to get agreement

to include the word "title" in that section thereby avoiding any future misunderstanding on the interpretation on the matter, including the word "title" and excluding the word "existing" in Section 35 would certainly eliminate ambiguity and provide the clarity that governments say they seek.

The entrenchment of aboriginal rights is the whole point of this exercise. Having participated in hundreds of hours of discussion on these issues, it now seems clear to me that the majority, if not all of the participating governments support the process of entrenching aboriginal rights. The differences among delegations arise in the context of how, when and through what mechanisms these can best be accomplished.

Nonetheless, there remains some government delegations who are afraid they are giving away the store if they entrench aboriginal rights now, aside from the fact that it was our store to begin with, we can understand their fears. But we cannot agree that discussion of endless detail will either resolve those fears, or move us along the road towards the completion of our task, the entrenchment of rights. We must find another mutually agreeable way to proceed.

We have spent the last year in largely unproductive modes of negotiate now and entrench later. This process is doomed to fail because it is not possible to negotiate detail on the basis of rights which later on may or may not be recognized and entrenched in the constitution at the end of the negotiating process.

We suggest it would be more fruitful to spend the next year in a mode based on the principle of entrench now and negotiate detail later. Before the storekeepers among us reject that idea out of hand, let's take a closer look at the possibilities that approach might develop.

Although I certainly cannot speak for the other aboriginal leaders, the Native Council of Canada would not expect the immediate entrenchment of a list of rights without qualification. What we are suggesting is that the skeleton of a Charter of Rights for aboriginal people be drafted for entrenchment with a rider or a qualifier which establishes a time delay for implementation. In that time period the skeleton can be fleshed out via the on-going constitutional process.

We invite you to discuss this concept in more detail during the course of this conference.

Before we go any further, however, with a discussion of how we might entrench our rights let me remind all governments here of our basic position. We in the Native Council of Canada cannot agree to any negotiation whose purpose or effect is the extinguishment of aboriginal rights. We emphasize this because the federal government, in its current claims negotiations in the Yukon and the Northwest Territories is actively insisting on extinguishment of rights as a condition of settlement at the same time as it is paying lip service to entrenchment of those same rights in the constitution.



I would like to refer now, Mr. Chairman, to the harmful impact of other negotiating processes which are occurring parallel to this constitutional process. We have already referred to the role of extinguishment in the claims negotiation process and its obvious effect, but there are others equally as significant and as threatening to our constituency.

Although most Canadians might not be aware of it, the delegations here are all familiar with the fact that both status Indians and Inuit organizations have a series of on-going negotiations with the federal government which are not part of this process. Our brothers and sisters in the Assembly of First Nations have, of course, the Department of Indian Affairs and investigatory mechanisms like the Penner Commission on Indian Self-Government working on their behalf. For their part the Inuit have been, and are involved, in a series of intense negotiations related to land claims, self-government and partitioning of northern territories. These kinds of activity are generally referred to as a bi-lateral process.

We, at the Native Council of Canada, are now feeling the increasingly serious and negative impact of those processes on our own constituency. Not only are we, by the very nature of the bilateral process, excluded from the most part of those negotiations, but we do not have access to a parallel bilateral process for our own constituency. In the context of self-government and of land base issues, we find ourselves placed at a



serious disadvantage in relation to even our other aboriginal friends. We will expect this serious inequality to be corrected in the very near future, and we urge your intervention as a means to initiate that process.

Mr. Chairman, in closing these remarks to you today, I cannot help but think back to the moment in time when I first felt a sense of real achievement in the struggle for our constitutional rights. It was January 31, 1981, late in the evening after lengthy weeks and months of discussions with your government. The Honourable Jean Chrétien was your key negotiator, and I was there with him that night as president of the Native Council of Canada. Together with the representatives of the Indian and Inuit peoples we agreed that the word "Metis" would be recognized in the constitution as aboriginal peoples.

Mr. Chairman, I am a Metis from Regina Beach, Saskatchewan, who is proud of his aboriginality and who believes that every person of native ancestry, from whatever Indian stock and from whatever corner of this great country has a special place in the Constitution in Section 35. Those are the aboriginal people I had in mind then and those are the ones whose rights the Native Council of Canada represents here today.

I thank you very much.

THE CHAIRMAN: Thank you very much, Mr. Bruyere and Mr. Daniels. I now give the floor to Mr. Chartier of the Metis National Council.

MR. CLEM CHARTIER (Metis National Council Constitution Committee, Saskatchewan): Thank you, Mr. Prime Minister. The Metis welcome this opportunity to continue our political dialogue with respect to the recognition of our rights, our rights which have been suppressed by federal government policies for the past 114 years.

We feel that the inclusion of the Metis in the Canada Act, 1982 was indeed a very positive development. We also find as a positive development the recognition of the Metis people by the involvement of the Metis National Council in this constitution process. I am heartened to hear Mr. Daniels state that he is from Regina Beach, Saskatchewan. As an elected official from Saskatchewan I certainly will take his interests to heart and his concerns certainly will be covered.

Mr. Prime Minister, with reference to your opening remarks we feel optimistic that some political movement can take place, that finally the federal government is dealing with the rights of the Metis. While we cannot agree with everything you have stated with respect to the Metis, in particular our relationship with your government, there are at least some areas which we can build on and I am particularly pleased that you are prepared, your government is prepared to have some further movement on the equality clause. It is something we embrace fully. However, based on your comments we do have a long road ahead of us, but we at least have taken the first few steps necessary on this long journey. With that, Mr. Prime Minister, Mr. Fred House, President of the Louis Riel Metis Association of British Columbia will make our official statement. Thank you.

MR. FRED HOUSE (Metis National Council Executive Committee, British Columbia): Thank you, Clem,

Mr. Chairman. First of all I would like to introduce the Presidents of the member associations of the Metis National Council. I would like to introduce to you Paddy McGuire, President of the Robinson Superior Metis Association of Ontario sitting over here. Next to him is Mr. Sam Sinclair, President of the Metis Association of Alberta and across over from Sam Sinclair to Don McIvor, the President of the Manitoba Metis Federation and, Mr. Prime Minister, Mr. Chairman, before introducing Mr. Sinclair I would like to state to you that Mr. Sinclair got elected in 1968, the year that you went into power, it is a coincidence I guess that he is also leaving Metis politics to assume work with non-status Indians. That is Jim Sinclair, President of the Saskatchewan Metis and Non-Status Indians Association. Then I would like to introduce Mr. Ferdinand Guiboche who is on the Constitutional Committee sitting over there and Mr. Elmer Ghostkeeper, the other constitutional spokesperson as well as the President of the Federation of Metis Settlements of Alberta. Of course, Mr. Chartier, the national spokesman of the Constitutional Committee.

Mr. Chairman, the Metis National Council is pleased to be here today to work towards the edification and definition of the rights of the Metis people to be entrenched in the Constitution of Canada. In order to achieve its objective this conference should recognize the obstacles which have blocked us in our efforts to date and explore ways to overcome them.



We trust that all participants will approach these talks in a candid and constructive manner and can muster the will and courage to go a step further than expected and reach an accommodation of differences. Two of the obstacles encountered this year have blocked progress on Metis issues in particular and have made our task through the constitutional process that much more difficult than those of other aboriginal peoples. The first of these was the reluctance on the part of some conference participants to recognize who and where the Metis people are. During the preparatory talks leading up to this conference the Metis National Council went to great lengths to explain who the Metis people are. We provided exhaustive historical and geneological material to identify the people who evolved into a distinct aboriginal nation in the late 18th and early 19th centuries and who asserted their aboriginal rights and nationhood in what have been called the Riel rebellions. We assumed that participants would draw the logical conclusion that Metis people today are descendants of the historic Metis nation of western Canada and other aboriginal people who have been absorbed by the Metis Nation. Yet we hear from some quarters that a Metis is anyone of mixed Indian and non-Indian ancestry from coast to coast. We think not. Surely it is more than racial characteristics that makes a people. What about a common history, culture, political consciousness? Our origins, like that of any people, when traced back far enough, are

mixed but once we evolved into a distinct aboriginal people.

The amount of this much or that much ancestry matters less than being Metis. It is our goal to leave this meeting tomorrow evening with a firm agreement on Metis self-identification and on the enumeration process by which the Metis membership will be established. To facilitate this process the Metis National Council will table for your consideration draft accord dealing with these two matters. When we get to the Metis agenda items we want to begin with this item and resolve this issue before we go on to other rights.

In the first accord we identify the Metis as the descendants of those persons in western Canada who received land grants and/or scrip under the Manitoba Act, 1870 and the Dominion Lands Act, 1879. We have also made provisions for other persons of aboriginal ancestry who have been or are accepted and have become a part of the Metis community.

The second accord sets out a process to enumerate the Metis. The Metis National Council must be the major participant in this process so we can determine our own membership. Another obstacle peculiar to the Metis is the unwillingness of governments to move on Metis issues until their jurisdictional responsibilities are settled. In practice this has meant that the Metis have been kicked around like a political football with neither level of government willing to move on our issues until

others accept constitutional and fiscal responsibilities for us. The end result is the federal-provincial impasse over jurisdiction with the real losers being the Metis for whom nothing is done. While the government of Canada accepts constitutional responsibility for the Indian and Inuit peoples, it maintains to this day that the Metis people are a provincial responsibility. While it has established bilateral processes outside of the constitutional talks through which land claim agreements and self-government can be pursued by other aboriginal peoples, it tells the Metis to go to the provinces to discuss these issues. We strongly feel that this unequal treatment of aboriginal people should end.

Being a practical people, the Metis recognize the necessity of working out an agreement on our rights with full understanding of the existing division of powers. In particular provincial jurisdiction over lands and resources. We know that the assumption of constitutional responsibility for Metis by the government of Canada is not a panacea. We know that the only way the Metis land base and self-government can become a reality is if Canada and the provinces within the Metis homeland mount the political will needed to release the Metis from the jurisdictional straitjacket in which we have found ourselves for decades. We appeal to First Ministers at this table not to argue over who does or who does not have responsibility to deal with us, but instead to determine how Metis aspirations can be accommodated through joint



federal-provincial action. If the provinces are willing to transfer lands to the Metis, surely the government of Canada can assume primary fiscal responsibility. Political will on the parts of both levels of government is also required for the transfer of entrenched or delegated powers to Metis governments on the land base. In short, Mr. Chairman, where there is a will there is a way.

Our commitment to a political resolution of our rights has been demonstrated outside of this national constitutional forum. Recently in Manitoba members of the Manitoba Metis Federation suspended its court action against the governments of Canada and Manitoba for their unconstitutional legislation striking down Metis aboriginal rights in the Manitoba Act. We welcome the willingness of the Manitoba government to seek a settlement of our claims out of court. At the same time we call on the government of Canada to show similar good faith by entering into discussions to resolve the long outstanding land claims of the descendants of the Manitoba Metis who now live throughout the Metis homeland in western Canada.

With respect to the process to date its structure has not served to facilitate discussions. It is unrealistic to expect that different aboriginal peoples with their distinct identities, cultures, legal situations and aspirations and 13 governments to sit down at the officials' and Ministers' table and accomplish very much. Any agreement on constitutional



amendments must involve all conference participants at the national level, but we remain convinced that the groundwork for these conferences must be done within a more flexible and more responsive framework. In the case of the Metis this means a sectoral forum involving the Metis National Council, the government of Canada, the five provinces and one territory within the Metis homeland. What we want this conference to do is set the stage for the next round of talks by agreeing to immediately entrench the rights of the Metis people to a land base and self-government. The sectoral process which would involve representative communities selected by the Metis National Council would delineate the boundaries of the Metis land base and identify the powers and responsibilities of self-government to be entrenched or delegated on the land base. The process would also deal with special political arrangements for those Metis choosing to live off of the land base.

On a final note, Mr. Chairman, let me remind conference participants that 1985 is the centenary of the Metis resistance of 1885 in Batoche, Saskatchewan. As one of the activities of the Batoche commemoration the Metis nation will be hosting an international indigenous youth conference to coincide with the United Nations International Year of Youth. Mr. Chairman, as a champion of world peace, the north-south dialogue and the rights of the indigenous peoples, you are invited to come to Batoche to share your visions with us. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. House.

I believe now we will turn to the provincial Premiers and end up with the two territories. If I could in the usual order call on Premier Davis.

HON. WILLIAM G. DAVIS: Mr. Prime Minister, at the outset I would like to express our best wishes to you for those other lives you say you are going to lead and not question but I have yet to be persuaded that it may be your last conference. In fact, I have a suggestion, we could still have that First Ministers Meeting on the economy and I would suggest the dates of the 15th, 16th and 17th of June coming up as a possibility.

I must say, Mr. Prime Minister that I have always been impressed by your chairmanship of these meetings, not that everyone totally agrees but you certainly have a degree of discipline that sometimes premiers haven't been able to exercise. I will comment no further on that.

I have also learned over the years, Mr. Prime Minister, that sometimes your casual remarks are nearly as important as those you read from a prepared text and when you intimated that you might take another walk on a clear day I sensed a nervousness on the part of the gentleman who was on your left, the gentleman who is still on your right and there is a little shuffling of the feet behind you and I tell you if they were watching this conference in the boardrooms of a certain law firm in downtown Toronto there would be a partners' meeting immediately. However, I shouldn't intervene in matters belonging to another ---

THE CHAIRMAN: That is another jurisdiction.

HON. WILLIAM G. DAVIS: Yes, another

jurisdiction, but in case this is your last conference, Mr. Prime Minister, I do express my best wishes to you in a personal sense.

Mr. Prime Minister, in 1979, Ontario proposed that aboriginal rights be made an agenda item for constitutional reform. Our objective at that time, sir, was to begin a discussion among governments on the kinds of issues that are reflected in the meeting today and the discussions that are ensuing.

In 1982 the new Constitution and through the commitment of many participants together achieved really what I think was a first, constitutional entrenchment of rights for Canada's original inhabitants.

A year after that historic achievement we added to these measures by a constitutional commitment to meet until 1987 to address concerns of aboriginal peoples. In my experience around this table, Mr. Prime Minister, no other issue has received such a categorical commitment from First Ministers in this country.

I mention these recent developments because I believe it is easy to lose sight of the distance we have travelled and the significance of what we have achieved thus far. In a nutshell, we have unanimous commitment to the discussion of aboriginal concerns. We have a detailed agenda and we have a process by which we can undertake this work.

I can appreciate, Mr. Prime Minister, I think as readily as anyone the fact that for those



who may see aboriginal rights as an all-embracing issue, reform may be too slow in taking place. I sense that --- I can also understand why aboriginal groups would prefer symbolic commitments to be entrenched first, whether or not their implications have been fully explored.

I think it is important to state that I have in the text here that governments, certainly I will only speak for our own, are no less committed. But we are also conscious of our many and often conflicting obligations and the interests of others which must continue to be respected at the same time as new entitlements are being recognized. We must move on the basis of what we are sure will work and entrench in those areas where we have achieved a broad national consensus.

The purpose of this meeting, Mr. Prime Minister, surely must be to build constructively on our achievements to date because our good faith has been demonstrated and will continue.

Ontario's goal for the consultative process on constitutional reform will remain the entrenchment of more adequate recognition of aboriginal concerns. We have until our final meetings in 1987 to define an effective, balanced constitutional response. At this meeting, I believe, Mr. Chairman, we should take practical steps towards that objective.

Now that we have an overall consultative process and agenda in place, I would like to propose that we turn to those issues most likely to yield

progress on aboriginal concerns. But to move from the straightforward matter of setting a process to the relatively unexplored area of substantive issues will involve a change of pace in terms of immediate achievements, a change which should not be interpreted as a loss of commitment.

We must realize that even with the best of goodwill and the most diligent of efforts this is, and will continue to be, a challenging period of discussion and negotiation. When you just consider, Mr. Prime Minister, the variety of influences at this conference itself, we have 17 delegations beginning to explore together 16 complex agenda items identified last year, items whose implications are not, in my view, totally developed.

Our discussions are affected by diverse elements of our history, certain ambiguities in the law, the need for justice, and the realities of modern government.

We bring to this table, I believe, Mr. Prime Minister, different cultural and philosophical perspectives that place issues and solutions in somewhat different orders of significance.

These diversities alone will place a premium on patience, understanding and mutual respect. We must avoid accusations that could only generate more heat than light. We must not allow ourselves to become deadlocked solely on the basis of perspectives which are naturally different.

I happen to believe from my own point of view, Mr. Prime Minister, that we can make real progress if we focus on concrete practical matters dealing with the reality of today rather than the hypotheses of history and I think we should get on with those issues we can do something about.

One of these items is equality rights. I hope we will take steps to rectify any misunderstandings which have arisen over our intentions to enshrine equality rights for aboriginal men and women in the Constitution.

As I review the discussions of the last year and look at the agenda before us, it seems to me that there is a recurring and somewhat dominant theme. Common to all working groups has been the issue of self-governing institutions for aboriginal communities.

To many people, not around this table, but perhaps in the public, Mr. Prime Minister, the term "self-government" may sound somewhat intimidating. Our experience in our own province is that we have program changes already in place or under active consideration which give native communities more responsibility for their day-to-day affairs.

Many of these reforms have been arising out of tri-partite discussions and these discussions have given us at least practical experience which makes the consideration of self-governing institutions, and constitutional protection, appropriate at this time. This experience, Mr. Prime Minister,



leads me to propose three steps that would build on such practical and specific developments and lead to discussions on the concept of self-governing institutions.

Firstly, we should affirm a statement of general principles regarding the status of aboriginal people in this country.

Secondly, we should establish specific objectives for the exploration of a variety of native self-governing institutions through discussions between government officials and native leaders. The proposed structures should be tested against selected communities in order to determine which of them are workable.

Thirdly, the process of resolving issues related to the programs and service offered to aboriginal people in each province should in our view continue.

The government of our province, Mr. Prime Minister, has advocated that several broad principles be entrenched in the Constitution as an indication of the importance we attach to the place of aboriginal people in Canadian society. We believe principles stand above and beyond specific issues such as self-government and could set the context for such an activity. We can thus guide any discussions we undertake between now and 1987 by adopting four broad principles and I point out, Mr. Prime Minister, there is no pride of authorship, they are not necessarily as inclusive as some might suggest and we would be more than prepared to listen to some ideas



as to what might be included.

These principles are very simply these, that the aboriginal peoples, they are citizens of our country. They are distinct because of their occupation of the land since time immemorial and as such they have unique cultures and languages. The aboriginal peoples require the opportunity to benefit from the use of their lands and waters as a base for the enhancement of economic opportunities of aboriginal communities and their families. The aboriginal peoples are entitled to various institutions of self-government within the Canadian federation and the aboriginal people require the opportunity of participating fairly in resource development.

Mr. Prime Minister, I listened very carefully to your opening statement. The statement included some of the areas to which I have referred. The statement also raised two or three questions which I will get into when we get into our continuing dialogue, but in proposing these principles I want to make it clear that they are not intended to limit any of the rights recognized in the Constitution Act. It may be that others here may prefer an accord on such principles rather than entrenchment at this time and I say to you, Mr. Prime Minister, that the province of Ontario is flexible and yet I may not be attending another 22 conferences of this nature and I guess I would like to see an entrenchment of these principles, because I think it would provide a focus, a motivation and really a very compelling obligation on us to make further progress. In whatever form they are

expressed, an agreement on principles would signal a tangible commitment, on behalf of us all, to the range of concerns at this conference. If these principles set the overall relationship between aboriginal groups and the governments in our country what then should be the objectives for our specific discussions on self-government? Here we have to be careful to distinguish between different types of native peoples, those on reserve lands, those scattered in our cities and urban communities and those who have already achieved a measure of self-government and I suggest the following objectives capture the sense of diversity.

Firstly, that there can be no second-class aboriginal people in this country. Inuit, Indians and Metis all have a right to participate in discussions with federal and provincial governments concerning a greater control over their own destiny. Discussions should define possible institutions and forms of self-government within the Canadian federation and in particular, examine the legal status, the source of jurisdiction, the financial base and possible powers of any proposed type of aboriginal self-government.

Various institutional responses should be devised for the different needs and situations of aboriginal peoples including those on reserves, in the North and those in urban settings.

Tripartite discussions aimed at responding to this kind of diversity should occur over the next year providing a range of options for the 1985 First Ministers' meeting.

Finally, based on this exploratory process principles of general application be developed for inclusion in the Constitution. Ontario is suggesting, Mr. Prime Minister, that these objectives form the base for any joint undertaking to study self-government. They amplify the process of negotiation proposed by the government of our country which appears to be in some respects similar to our own. They will certainly compliment the thrust of the federal government's response to the Penner Report that has been recently released.

Mr. Prime Minister, we put these proposals for broad principles and specific objectives on the table with the intention of furthering the commitment of governments to aboriginal issues in a positive and constructive fashion. There can be reforms within the structure of the Canadian federal system which give aboriginal people more control over their lives but without fragmenting our country and provinces or our individual communities. In our proposals, Mr. Prime Minister, we have tried to incorporate the best of what has been discussed during the past year. If agreement among us on this approach is apparent then I would suggest we ask our Ministers and using some of the material,



Mr. Prime Minister, that you have tabled to draft an accord and ask our officials to work on the details of the process. To avoid any future uncertainty we should before we leave clearly state just what we want explored and how we want it done. I want to emphasize, sir, that these proposals are intended in our way at least to address today's priority within the context of progress towards 1987. There will be other opportunities to examine unfinished business just as there will be ongoing achievements with services and programs which have resulted from existing tripartite discussions. However, Mr. Prime Minister, since I sincerely do not believe that the constitutional process can advance unless we as First Ministers and leaders of our native peoples reach an agreement to set the work plan for the next year and to end this series of discussions in 1987. It has been my experience, Mr. Prime Minister, and it has not always been easy, that building bridges between divergent views is a tradition of these conferences and I expect we can and will achieve this measure of success once again.

THE CHAIRMAN: Thank you, Premier Davis. I couldn't help noting your predilection for constitutional amendment as opposed to legislative routes or accord. That is a thought that I hope will guide you in many areas.

HON. WILLIAM G. DAVIS: I am always guided, Mr. Prime Minister, but I also live with my conscience as well, as you do.



LE PRESIDENT:

Je donnerais maintenant la parole au premier ministre Lévesque de la province de Québec.

M. RENE LEVESQUE (Premier ministre du Québec): Alors, monsieur le président, on nous a demandé d'être brefs autant que possible; alors, je vais faire de mon mieux et, pour partir du bon pied, je vais me contenter simplement d'endosser les bons sentiments et les souhaits que formulait à votre endroit le premier ministre de l'Ontario de même que la prudence qui marquait ses propos, parce qu'on ne sait jamais.

D'abord, si vous permettez, un simple rappel du message que je livrais ici même l'an passé lors de la première conférence des premiers ministres sur les affaires autochtones.

La participation du Québec à cette conférence-ci, comme à celle-là l'an passé, découle directement de notre acquiescement à la demande pressante des nations autochtones du Québec, la demande qu'ils nous en ont faite.

La présence, d'ailleurs, des représentants de toutes ces nations comme membres de notre délégation, témoignent de l'esprit de solidarité, de confiance mutuelle et d'espoir partagé qui nous a animés dès le début, qui nous anime encore et qui, quant à nous, devrait maintenant -- il me semble en tout cas -- devenir une donnée permanente.

Parmi ces délégués autochtones du Québec, je soulignerai d'abord la présence de trois femmes d'un idéalisme à la fois brûlant et axé solidement sur des résultats concrets: la présidente, qui est ici près de moi, et la vice-présidente de l'Association des femmes autochtones, mesdames Courtois et Stacey-Moore; et aussi, représentant pour sa part le Equal Rights for Indian Women, cette grande pionnière de la cause, madame Mary Two-Axe Early, qui terminait, on s'en souviendra peut-être, son émouvante intervention de l'an dernier par cet appel: "J'ai vu, disait-elle, que le Grand Esprit vous aidait à écouter votre conscience, vous donnait le courage de vos convictions et la force de défendre vos principes d'hommes et de femmes libres... Vous assurerez, ajoutait-elle, vous assurerez à mes soeurs leur liberté..."

En cette Journée Internationale des Femmes, qui tombe aujourd'hui le 8 mars, je me permettrai donc de rappeler d'abord très brièvement que le Québec, sauf erreur, a réussi à battre la marche à ce sujet, et puis je me permettrai également d'espérer qu'avec un certain minimum d'efforts, nous arriverons à allonger substantiellement le bout de chemin qu'avait parcouru dans ce domaine la conférence de l'an dernier.

Maintenant, sur un sujet beaucoup moins inspirant, il y a également, comme l'an dernier, une chose que je me dois de rappeler. C'est que notre participation ne peut aucunement être interprétée comme une quelconque acceptation du Canada Bill, qui nous a été imposé sans notre consentement et dont nous ne pourrions reconnaître la validité aussi longtemps que n'auront pas été remplies les trois conditions posées par l'Assemblée nationale du Québec.

Ces conditions, je les énumère à nouveau rapidement: premièrement, ou bien que soit remis au Québec ce droit de veto que, paraît-il, nous n'avons jamais eu, ou bien qu'on nous accorde alors cette formule de retrait et de pleine compensation que d'aucuns autour de cette table se rappelleront sans doute, au moins un tout petit peu.

Deuxièmement, le rétablissement des droits et des pouvoirs en matière linguistique qu'on nous a enlevés et sans lesquels, j'ai déjà eu l'occasion de le souligner, le Québec ne serait jamais entré dans la Fédération canadienne.

Et troisièmement, et ça c'est quelque chose comme la suprême ironie que d'avoir à mentionner ce sujet au moment où on envisage la reconnaissance constitutionnelle de droits, non seulement individuels, mais de droits collectifs, des droits en quelque sorte nationaux des peuples autochtones -- et Dieu sait s'ils

ont longuement et douloureusement méritée cette reconnaissance -- troisièmement, donc, notre Assemblée nationale a exigé que, de la même façon, on admette spécifiquement l'identité d'une autre nation, tout aussi distincte que n'importe quelle autre et qui est surtout concentrée au Québec où elle trouve, je crois, sa seule vraie patrie, une nation que le Canada Bill s'est permis d'ignorer totalement comme s'il s'agissait d'une simple collection d'individus. On sait à quel point l'individu, la personne, c'est fondamental, c'est sacré, mais une personne appartient aussi à une communauté humaine. On a fait comme s'il s'agissait dans notre cas d'une collection d'individus qui n'ont aucune appartenance distincte alors qu'en réalité le Québec français possède un caractère indiscutablement national, qu'on l'admette ou qu'on ne l'admette pas.

Cela dit, au chapitre de nos relations avec nos concitoyens autochtones, il s'est déroulé chez nous, depuis la conférence de l'année dernière, un événement qu'il faut je crois, sur le plan québécois en tout cas, qualifier de majeur puisque c'était une première dans notre histoire politique. Il s'agit de la Commission parlementaire sur les droits des Autochtones qui s'est tenue à Québec les 23, 24 et 25 novembre dernier, et dont on trouvera un résumé succinct dans le dernier numéro de notre revue Rencontre qui vous sera tout à l'heure distribuée dans les cinq langues dans lesquelles elle est publiée régulièrement, c'est-à-dire, le français, l'anglais, le cree, l'inuktituk et le montagnais.



Dans le passé, les représentants autochtones étaient bien venus à l'occasion présenter leurs points de vue parmi les autres intervenants devant l'un ou l'autre des Comités de l'Assemblée nationale du Québec mais, cette fois-ci, ils sont venus exposer pendant trois jours aux parlementaires québécois leurs droits et leurs problèmes, tels qu'ils les voient et tels qu'ils les vivent, et aussi leurs espoirs dans le cadre d'une Commission parlementaire spécifiquement mise sur pied à leur intention. Avec leur collaboration, nous voulons, très bientôt d'ailleurs, institutionnaliser la chose pour en faire un forum permanent. J'ajoute que ce processus s'est élaboré et s'est déroulé aussi, non seulement en association étroite avec les Autochtones, mais aussi en étroite collaboration avec notre Opposition parlementaire, ce qui me semble extrêmement important et très significatif aussi pour l'avenir.

Pour nous en effet -- et on me permettra de penser qu'il devrait peut-être en être ainsi pour chacun de nos gouvernements auxquels on confie le mandat d'aménager la vie sociale et la vie économique des gens -- il ne s'agit pas seulement de régler, je dirais même il ne s'agit pas d'abord de régler, par le biais constitutionnel et à la faveur de compromis savamment orchestrés, le sort des descendants des premiers habitants de ce pays. Davantage encore, il s'agit de déterminer, à l'intérieur de notre société, les formes ou les façons de

coexister qui respectent la réalité vécue et permettent de bâtir un avenir collectif dans le respect de chacun.

Ce mot de coexistence, je le retiens des présentations qui nous ont été faites lors de notre Commission parlementaire québécoise; je l'ai retenu aussi des nombreuses propositions mises de l'avant par les représentants des Autochtones de l'ensemble du Canada, et avec une insistance particulière au cours des douze derniers mois. On me permettra de citer au texte, à ce sujet, un extrait de l'éloquente intervention qui, peut-être n'a pas rallié tout le monde mais que nous avons trouvé très percutante, quant à nous, l'éloquente intervention que faisait à Victoria le 27 février dernier, il y a très peu de temps, monsieur Neil Sterritt, le porte-parole autorité des Premières Nations, il disait ceci:

"There has to be some assumptions made at the highest level. Now if the real movement is going to happen in the courts, maybe that is where we have to be. I am talking about the aboriginal people. Maybe that is where the real movement will be, because it is not happening here. Not only that, you are trying to address change within your constitution. We are trying to define our relationship with you... Let us get away from the constitution and the wording in it -- ajoutait monsieur Sterrit -- and start to define our relationship."

Quant à nous, dans la même veine, je rappelais l'an dernier l'importance que nous attachons au processus dans lequel nous sommes engagés au Québec, parce qu'il permet d'aboutir, de bonne foi, à des ententes dont le contenu même est déterminé conjointement, qui peuvent être modifiées sans difficulté avec le consentement exprès des parties et ne peuvent pas l'être arbitrairement ou unilatéralement en l'absence d'un tel consentement. Au terme d'encore douze mois d'efforts, de discussions, de palabres, de pourparlers, nous sommes plus convaincus que jamais de l'à-propos d'une telle formule.

Que nous a dit en effet le discours autochtone pendant cette période? Que non seulement, tout le monde le sait, les Autochtones sont fiers de leur identité et entendent la conserver, mais aussi qu'ils sont assez 'matures' si vous me permettez l'expression, pour déterminer eux-mêmes où ils veulent aller. Ils nous ont également dit qu'ils n'entendaient plus vivre sous la tutelle de qui que ce soit et que l'affirmation de leur identité propre passait par la reconnaissance de l'autonomie politique et le pouvoir de disposer de territoires ou de ressources.

Et bien j'en suis sûr, avec un minimum de bonne foi, de réalisme et de respect de l'autre, il y a des réponses auxquelles on peut arriver concrètement à ces demandes légitimes. Nous savons tous, par exemple, que nous ne sommes pas prêts à remettre aux Autochtones la propriété de toutes les terres dont ils nous disent que les



blancs se sont illégalement emparés. Mais je suis également certain que les Autochtones eux-mêmes ne prétendent pas pouvoir effacer l'histoire de l'occupation européenne qui a débuté il y a au-delà de 400 ans. Ils sont ici chez eux en vertu d'une présence de leurs ancêtres qui se perd dans la nuit des temps, et ils vont rester, ils vont rester eux-mêmes, ils y sont bien décidés. Quant à nous, nous sommes ici depuis moins longtemps mais nous aussi nous allons rester et continuer de vivre côte-à-côte avec eux.

Cette coexistence, elle s'inscrit tout simplement dans une réalité historique géopolitique et économique qu'on ne doit jamais oublier si on veut arriver à quelque résultat que ce soit. Il me semble qu'à partir d'une constatation comme celle-là, et avec ce que j'évoquais comme minimum de réalisme, de bonne foi et de respect de l'autre, on peut arriver à beaucoup de résultats.

Evidemment, nous ne pourrons, tant qu'à nous que nous réjouir des engagements précis, des assurances que pourront obtenir les Autochtones de cette deuxième conférence. Tout ce qui nous paraîtra acceptable, quant à nous du Québec, bien sûr que nous n'élèverons pas d'objections à ce propos. Seulement, pour ce qui nous concerne, ça devra évidemment se faire dans le respect de la souveraineté de notre Assemblée nationale et de l'intégrité du territoire québécois.



Mais, d'autre part, comme nous l'avons déjà dit aux Autochtones du Québec, nous n'attendrons pas que de telles assurances leur soient données ailleurs pour continuer de contracter avec eux chez nous des engagements précis et les inclure, le cas échéant, dans nos lois fondamentales.

A ce propos, j'écoutais tout à l'heure avec beaucoup d'intérêt les quatre principes qu'énonçait le premier ministre fédéral. En les écoutant j'ai eu l'impression qu'on pouvait les accepter d'emblée, le contenu paraissait acceptable, comme on dit en anglais 'as far as it goes'. Il me semble qu'une approche comme celle-là peut être d'autant plus indiquée que je souligne que nous avons nous-mêmes au Québec, et je crois les premiers dans ce domaine, nous avons mis au point une sorte de feuille de route équivalente, qui n'est pas parfaite elle non plus, mais je crois va pas mal plus loin dans l'élaboration d'une perspective de progrès tangible et concret et, quant à nous, c'est à partir de là que nous nous attendons à pouvoir conclure avec les Nations Autochtones du Québec, sur la base de leurs droits et autant compte de leur situation, des ententes qui respectent à la fois leur autonomie et les pouvoirs de notre Assemblée nationale, à la fois aussi leurs droits à des territoires et l'intégrité globale du territoire québécois. Ca a déjà été réussi avec l'entente de la Baie James et du Nord Québécois et sans doute on pourra faire mieux encore à l'avenir étant donné les leçons que de part et d'autre nous pouvons honnêtement tirer de la mise en application de ces accords.

A ce point de vue-là, j'ai trouvé extrêmement encourageant certains des propos que nous avons entendus de la part du porte-parole Inuit de tout à l'heure, monsieur Amagoalik.

Enfin, en me référant toujours à cette démarche proprement québécoise qui vise essentiellement à l'aménagement des droits des Autochtones et à leur application concrète et réaliste, nous désirons fortement que le processus actuel qui est entrepris au niveau pan-canadien ne puisse pas servir de prétexte pour retarder les choses indûment. Par exemple, un seul exemple, nous avons entrepris avec la bande mohawk de Kahnawake, non loin de Montréal, une démarche qui nous semble très prometteuse, et je crois que c'est vrai de part et d'autre, sur le plan de la santé, en termes de relations pour ainsi dire de gouvernement à gouvernement. Je crois qu'on peut ainsi la qualifier. Il s'agit d'une démarche qui respecte à la fois l'autonomie politique fondamentale de cette bande -- en tout cas, dans toute la mesure du possible -- et la responsabilité du Québec en matière de santé vis-à-vis l'ensemble de la société. Or, la réponse au rapport Penner que le ministre fédéral des Affaires indiennes a déposé ces jours derniers devant le Parlement fédéral, qui évidemment a été quelque peu coloré différemment ou additionnellement par les propos du Premier ministre tout à l'heure, alors je ne peux pas entrer dans le détail,

mais cette approche au rapport Penner, celle du ministre fédéral des Affaires indiennes, pourrait nous inquiéter dans la mesure où elle aurait pour effet, peut-être, de venir retarder ou même de briser des ententes déjà conclues ou des ententes qui nous semblent en bonne voie de pouvoir se réaliser.

Ce que je veux souligner très simplement, monsieur le président, c'est que le processus actuel devrait permettre aussi -- ou si vous préférez ne devrait pas empêcher en tout cas -- que s'accomplissent des progrès réels sous le signe d'une autonomie politique des Autochtones qui demeure évidemment compatible avec les règles qui gouvernent la société environnante.

Je tiens à assurer nos amis autochtones, et au premier chef évidemment ceux du Québec, que nous entendons participer aux délibérations d'aujourd'hui et de demain, et à celles qui suivront éventuellement, avec une totale ouverture d'esprit. Je souhaite que le fédéral et les représentants des Autochtones adoptent une attitude analogue à l'égard des provinces. Nous devrions, du moins il faut l'espérer, avoir dépassé la phase de méfiance que l'histoire, il faut bien le reconnaître, avait justifié en très grande partie. Pour nous, à tout le moins, en ce qui concerne les suites à donner au rapport Penner, nous entendons profiter au maximum des ouvertures faites par le fédéral dans sa réponse à ce rapport. Je tiens à indiquer



dès maintenant, par exemple, que nous sommes non seulement désireux d'être consultés -- ce que promet cette réponse -- mais que nous devrions aussi, quant à nous, être appelés dès le départ à collaborer étroitement à l'élaboration de la législation nouvelle, éventuelle, dont il y est fait mention. En acceptant d'avance, bien entendu, le principe que soit reconnue aux Premières Nations, aux peuples autochtones, la plus large mesure d'autonomie politique possible, une autonomie qui, à notre avis, devrait être d'autant plus grande qu'elle s'exercerait au sein des sociétés environnantes.

En terminant, je veux résumer très brièvement. J'ai exposé de mon mieux ce que le Québec a d'ailleurs démontré, je crois, par des gestes concrets -- c'est-à-dire notre volonté d'effectuer plus qu'un nouveau départ, un nouveau départ qui n'en finit plus de partir, mais l'établissement, le plus rapidement possible, de relations vraiment étroites et vraiment chaleureuses avec nos concitoyens autochtones.

J'ai également été dans l'obligation de rappeler certaines contraintes et certaines exigences fondamentales que nous n'avons pas voulues mais que d'autres nous ont imposées. Et j'ai tâché enfin de dire aussi clairement que possible que ce qui compte pour nous, c'est avant tout que des efforts soutenus,



si laborieux soient-ils, aient toutes leurs chances de porter fruit. C'est uniquement par des actions et des réussites concrètes que nous pourrons nous re-découvrir vraiment les uns les autres, et nous convaincre mutuellement de notre bonne foi et de notre sincérité.

Merci, monsieur le président.

LE PRESIDENT:   Merci, monsieur  
le premier ministre Lévesque.

Before I turn now to the Premier of Nova Scotia, I would ask if it is a convenient hour to adjourn for lunch. It is obvious we will not have time to complete the first turn of speakers before lunch. I would suggest for your consideration that we adjourn at 12:30 or soon thereafter so whoever has the floor can finish his statement to two o'clock. That would have given us three-and-a-half hours work this morning and we could meet for three hours this afternoon from 2:00 until 5:00 if that would be convenient.

Premier Buchanan of the province of Nova Scotia.

HON. JOHN M. BUCHANAN (Premier, Nova Scotia): Thank you, Mr. Chairman. Mr. Chairman, at the outset I would like to mention that present at this historic conference from Nova Scotia are representatives of the Native Council of Nova Scotia, Native Women's Association of Nova Scotia, the Union of Nova Scotia Indians and the Union of Nova Scotia Municipalities. Mr. Chairman, in light of your opening statements, your remarks this morning and the statements that have been made this morning by aboriginal representatives I am very pleased to respond and to state Nova Scotia's present position. Today and tomorrow we are urged to consider amending the Constitution of Canada to recognize self-government as an aboriginal right in law. The series of meetings held over the last several months by our Ministers and officials with aboriginal representatives and the detailed reports of the four working groups our

Ministers established to assist with the matters on our agenda demonstrate in our opinion that agreement has not been achieved for this conference on a clear and agreed definition of the words "self-government." For instance, would self-government in law include self-identification? What beneficial benefits would it be intended would flow from self-identification? We are urged to agree that self-identification would include exemptions from federal, provincial or territorial and municipal taxation. We are urged to agree that aboriginal self-government requires a land base. Where, provided by whom? It is said that the land base should include subsurface rights, that self-government would include the right to make laws and that in the event of conflict with laws of federal, provincial, territorial or municipal jurisdictions the aboriginal law should be paramount and we are told that self-government would require equalization grants. Mr. Chairman, in the interests of productive dialogue may I say that some of the demands are not realistic. They stand in the way of effective movement toward agreement. Let me indicate what Nova Scotia does support. We believe that steady and sure progress is being made in our constitutional meetings. As we begin this year's conference and prepare to continue earnest, sincere discussions leading up to next year's conference we do not expect that our work to date will culminate in agreement on substantial amendments to the Constitution Act by the close of our conference tomorrow.

Therefore, Mr. Chairman, in this circumstance Nova Scotia wishes to propose that a "statement of objectives" should issue from this conference, perhaps in the form of a codicil to the Accord signed March 16, 1983 whereby First Ministers and aboriginal peoples would publicly agree and commit themselves to pursue intensively the following objectives:

(1) The determination and clarification of federal government responsibility for aboriginal peoples and their definition in law, Indians, Inuit and Metis;

(2) The development of significantly increased authority and commensurate responsibility of the aboriginal peoples for their own internal affairs;

(3) The identification and definition of the rights and freedoms of the aboriginal peoples;

(4) The preservation and continued development of the traditions and cultures of the aboriginal peoples; and

(5) The provision of public service for aboriginal peoples comparable to those available to other Canadians and the implementation of appropriate initiatives required to respond to the special social and economic needs of the aboriginal peoples.

Mr. Chairman, in addition to the "statement of objectives" that I have proposed Nova Scotia has also a specific proposal to make to amend further the equality provisions in Section 35 of the Act. The amendments would constitutionally guarantee existing aboriginal and treaty rights, bring into



Section 35, Part II of the Act the identical provisions of Section 15(1) and (2) of Part I, the Charter of Rights, concerning equality before and under law, equal protection and benefit of law and affirmative action programs. We propose in Section 35 the same enforcement of guaranteed rights and freedoms as is now provided in the Charter of Rights. Mr. Chairman, we are, I believe, at present or will be shortly distributing Nova Scotia's "Statement of objectives" and the amendments to Section 35 to delegates' places for your consideration. Thank you very much.

THE CHAIRMAN: Thank you, Premier Buchanan. I now call on Premier Hatfield.

HON. RICHARD HATFIELD (Premier, New Brunswick): Mr. Chairman, I want to say at the outset when we began this series of discussions with regard to aboriginal rights that we seemed to be leaping into a very muddy pond, but as the conferences have developed and having the advantage of attending the Ministers' and aboriginal peoples' conferences I do believe that a good deal of progress has been made and I think that is demonstrated by the comments that have been made today. I think that the spokespersons for the aboriginal peoples have clearly grasped what I think is the essence of Canada and being Canadian and that is grasped the concept of compromise. I think they have made their positions clearer and they are better developed today than they were a year ago. So I think real progress has been made. I also feel very strongly that a good deal of expectation has been raised first by

the recognition in the Constitution Act 1982 of the aboriginal peoples and, secondly, as a result of the discussions at the people level, among the aboriginal peoples in Canada that a good deal of expectation has been raised and therefore it is extremely important in my view that we indicate at this conference a recognition of the very good work that has been done, and recognize in my view the time has come to recognize in the Constitution the right of self-government of the aboriginal peoples.

I must say, Mr. Prime Minister, that I was very impressed with your opening statement. I think that it goes a very, very long way. I think that it will be a very difficult -- and this pleases me -- it will be a very difficult position to back away from and that is important. I think that the recognition of uncertainty of the former clause with regard to the equality rights of men and women, I think the recommendation you make there is an improvement and we will discuss that later. I think what you had to say about self-government is very good. On the whole I would support your recommended amendment to the Constitution. However, there does seem to be kind of caution words in that proposed amendment and I refer to 32(2)(b) and I am not sure I understand and this is what concerns me. I am not sure I understand exactly what is being said here "The aboriginal peoples of Canada have the right to self-governing institutions". I agree with "that will meet the needs of their communities". I agree with that. "Subject to..." I think I know why "subject to" is there, but I don't think a right as important as the right of self-government can be "subject to" and I am concerned about that.

It goes on "Subject to the nature, jurisdiction and powers of those institutions to the financing arrangements relating thereto being identified and defined through negotiation". I again consider the word or the phrase "being identified" as being a cautious word a caution word and I think it will be interpreted by the aboriginal people as a kind of, something less than the best effort.

I think that we can go further than that and not hesitate in a matter of this significance or importance, because it is clear to me now that the aboriginal peoples have adequately identified the right to self-government and the need for self-government. How that self-government is going to be composed, what jurisdiction it is going to have and so on, that I agree has to be negotiated and I hope we can agree on that and focus on that because what has happened -- what has been happening in the last year in my opinion is we were trying to tackle too many issues. There were too many items on the agenda and I accept the same responsibility for that as everyone else who signed the accord.

I think we should try to get some focus as I think the Metis and the Indian people and the Inuit have done and I think that the area that is of common concern here is the area of self-government. So, I would like to see it entrenched. Some people raised the cost question, that what is this going to cost us and before we did we should know what it is going to cost us.

When we talk about the freedom and the protection of our freedom as Canadians we don't talk about the cost. We demand it. We insist on it and then we decide what the costs are going to be and those costs increase, change and vary from year to year, but I think it is important that we state this -- recognize, acknowledge the right to self-government on the part of the aboriginal peoples.

Another point that I am concerned



about, and I have been concerned about this for some time, when we reach the agreement on the Constitution and when the clause was inserted with regard to aboriginal peoples, it was clearly my understanding that we were talking about the Indian people, the Inuit people, the Metis people and we were also talking about what I call the innocent victims of bad Indian policy or a bad Indian Act which the government has obviously recognized, because that is why they are proposing to change it and I refer to the non-status people. I don't like that phraseology. However, they use it and for lack of a better means of explaining it.

We have got to come to terms with this problem of those people who were victims of a previously bad policy and certain things have flowed from that, a certain attitude towards what it is to live in Canada have flowed from that and I think we have got to come to terms with that and not leave it out of our discussion, as I feel we do when we talk about the Metis, the Inuit and the Indian.

Once you have amended the Indian Act, depending upon how it is amended, we should know what the magnitude of this problem is, but I don't think we should take for granted that an amendment of the Indian Act will in fact cause what are now known as non-status Indian people to suddenly disappear, so I am concerned about that.

I feel that we have made, as I said, a good deal of progress. I appreciate the initiative

that you have demonstrated. I think it was essential to progress being obtained in these conferences.

J'estime que nous devons définir et préciser les responsabilités du gouvernement fédéral à l'endroit des Autochtones. Je demande au gouvernement du Canada de reconnaître et d'assumer ses responsabilités spéciales en ce qui a trait à tous les Autochtones, et d'accepter en tant que gouvernement national la responsabilité globale du succès des conférences portant sur les droits des Autochtones.

Le gouvernement du Canada doit mener ses discussions en voulant assurer au mieux les entrées des Autochtones et non en essayant d'échapper à ses responsabilités ou de protéger ses arrières. Merci.

LE PRESIDENT:

Le premier ministre du Manitoba, monsieur Pawley.

HON. HOWARD PAWLEY (Premier of Manitoba): Thank you very much, Mr. Chairman. Merci.

At the opening of my remarks, I would like to extend to you, Mr. Chairman, best wishes. I believe your contribution to Canada will be well remembered and amongst those areas of recognition and respect will indeed be your contribution towards the Constitution and the fact that this conference that we are engaged in today is taking place and the progress that has been made in regard to the very important, the very fundamental issue that we are dealing with.

Mr. Chairman, in view of my government's views that there can be no doubt that the process that brings us here today is intended to be a solemn undertaking, that the First Ministers of this country together with the representatives of the aboriginal people would dedicate themselves to identifying and defining aboriginal rights, but in Manitoba's view Section 37 goes further than that. It is, I believe, a statement, albeit a broad one which recognizes the existence of aboriginal rights and recognizes that these rights have not been extinguished. The section would be a pointless one without that implied recognition. We deem it important to emphasize this fact at a time when all too frequently many voices are being heard expressing doubts about the process, predicting that little or no progress will be made at this meeting. Indeed, even going so far as to suggest that the



process will go on for 50 years without anything being accomplished.

The fact that it took the federal government and the provinces over 50 years to arrive at the Constitution Act, 1982 need not serve as a motto. After all, as our aboriginal compatriots have often pointed out, they have already waited some 400 years for the full recognition and protection of these rights. The process having begun, the time for some results is not 50 years from hence. And, Mr. Chairman, when we say results we mean constitutionally protected rights.

My government is already known for its position on the question of aboriginal rights. It's a position that is well known. That position is the subject of a number of documents that were tabled at preceding meetings. I refer particularly to our statement of principles tabled at the First Ministers Conference in March of 1983 and the Manitoba position on self-government tabled in Toronto on February 13th of this year. I refer as well to our proposal concerning an amendment to Section 35(1). I believe that such an amendment is attainable at this meeting. Our proposal is to clarify Section 35(1) so that it reads: "The existing aboriginal and treaty rights, the aboriginal peoples of Canada are hereby recognized, guaranteed and protected."

We have also proposed a remedy clause for Section 35 and I do not intend to repeat the other points that were made in our position papers. They speak for themselves and they will be referred to by

us during the course of the next two days.

It is important, however, to emphasize that central to this entire process is the undeniable fact that the rights we are called upon to identify and define arise in the first instance from the use, the occupation, the collective ownership of this land by the aboriginal peoples for centuries prior to European settlement. Indeed, in an item in last week's newspaper referred to archeological work being done on a site in western Canada of an aboriginal settlement which dated back some 5,000 years. I make this point only to emphasize that aboriginal rights are founded on an undeniable historical fact. Indeed, conceptually they are recognized not only in the Royal Proclamation of 1763 and the treaties, but they are also recognized in moral and international law as well.

You may recall that in the documents tabled by Manitoba, we have stated that in the process of identifying and defining aboriginal rights for inclusion in the Constitution of Canada account must be taken of Canada's present political and constitutional structure.

Manitoba regards with considerable interest Canada's proposal for an accord. You may recall that Manitoba tabled a proposal for an accord in Toronto on February 13th and we look forward to a detailed discussion on the contents of an accord. We note as well the statement in the proposal for a review of programs and services and I quote: "In undertaking this review the federal government does not intend to undermine in any way its special relationship with aboriginal peoples nor will it seek to reduce its financial responsibilities or to invade provincial areas of jurisdiction." Manitoba has stressed consistently the primary fiscal responsibility which Canada has for aboriginal peoples flowing from its trust responsibilities. In that regard I think I would be remiss today if I did not state that Manitoba believes that Canada's responsibility with regard to the Metis goes further than indeed, Mr. Prime Minister, your opening statement. Mr. Chairman, we remain convinced that matters such as those before us are best resolved and dealt with in the political forum. That is why we say let this First Ministers' Conference be a demonstration of political will, a rededication to the political process and prove to all Canadians that this process can work.

THE CHAIRMAN: Thank you. We will now hear from Premier Bennett of British Columbia.

HON. W. R. BENNETT (Premier, British Columbia): Thank you, Mr. Chairman. Before I begin



my remarks let me join others because this is your twenty-second and, by your own announcement, final First Ministers' Conference in wishing you a very healthful and long political retirement.

Mr. Chairman and my fellow colleagues, provincial Premiers and representatives of the Northwest Territories and Yukon governments and distinguished representatives of the aboriginal people, I, of course, wish to add a special welcome to the members of the four national organizations which represent the aboriginal peoples of Canada. I am pleased to see how many of their numbers have come from my province of British Columbia and I also want to extend a special welcome to representatives from the Northwest Territories and Yukon governments. This is the second in a series of four First Ministers' Conferences to include on its agenda issues of concern to the aboriginal peoples of Canada. In specific terms the agenda contains those subjects which were put forward by the aboriginal representatives well over a year ago and which were not dealt with at the First Ministers' Conference held in March of last year. Since last we met just less than a year ago I sense that there has been some progress toward a fuller understanding by all of us of the issues and the implications arising from certain subjects on the agenda. Since our last conference three ministerial meetings have taken place and our officials have met on five occasions. Those efforts are reflected in the working group reports that we have



before us during these two days and I want to commend all those who have taken part during the course of the past year in what has been a painstaking and complex process. We as governments understand somewhat more fully the nature of some of the concepts put forward and trust that the year has resulted in the aboriginal groups also understanding more fully the concerns which governments have in respect of many of the issues. As favourable as progress has been over the past year, I would be less than candid if I did not indicate that from British Columbia's perspective there is a good deal more preparatory work to be done in respect of most of the issues on the agenda before a decision can be made whether provisions can be added to the Constitution. I would add my voice to those who call for prudence and caution. There are no quick fixes or panaceas. Constitutional revisions are by their very nature more or less permanent and it is essential that all the implications of all of the issues on the agenda be fully assessed before firm decisions are made. We are embarked on a four-year process. No one should be dismayed if at any one time it is not possible to conclude discussions on items leading to constitutional provisions. History shows us that constitutional reform is a slow process. In this connection I would point out that during the round of Victoria Charter Constitutional Conferences from 1968 to 1971 there were no less than seven First Ministers' Conferences, nine ministerial meetings and 29

meetings of officials and it was not until the sixth or seventh First Ministers' Conference held in February, 1971 that discussions had progressed to the point where the concepts that had been discussed at previous meetings were formulated into draft constitutional text.

In many respects much of the subject matter during the Victoria Charter round was less complex than some of the subjects that are on the present agenda and, Prime Minister, I need not remind you that 54 years of discussion took place prior to the Constitution being taken. So I see this particular conference as an opportunity to report progress and to give our officials and Ministers further direction to continue the work. Perhaps that direction can be more focused so as to concentrate the efforts of the next 12 months on a much more manageable agenda than has proved to be the case during the past 12 months. During the course of these two days we may be asked to add certain words to the Constitution or to take certain words out of the Constitution. I think it would be most unwise to proceed in that way. In that connection, Prime Minister, I endorse the comments made by your Minister of Justice at a meeting of Ministers with aboriginal leaders in Yellowknife in January of this year when he said and I quote: "We are prepared to support only those changes which reduce ambiguity. We are not prepared to accept changes such as the addition of the word 'title' or the removal of the word 'existing' in isolation from

other changes because the effect of changes such as that would not be to clarify the situation. It would be in fact to increase the ambiguity and to make it even less predictable than what the courts might do." It would be most unwise for us to take decisions during these days that will only create further ambiguity and uncertainty in the Constitution. I think we would do well to remind ourselves that constitutional change should never be considered to be an end unto itself. The task that we all share around this table is to take the necessary steps to preserve and enrich the native culture of this country and to above all provide our native people the opportunities, be they economic, education or health and other amenities, that most other Canadians enjoy. Shortcomings in the past have not necessarily been created by the existing Constitution nor can they necessarily be alleviated by constitutional amendment. At the present time the federal government has the full constitutional power and responsibility to legislate in respect of Indians and lands reserved for Indians. Before final decisions can be made as to the necessity of constitutional amendments it is essential to know what the firm intentions of the federal government are in terms of new legislative programs for aboriginal peoples, models for self-government, financial services, assistance, delivery of services, all of which I might add can be addressed by the



federal government without constitutional change at all.

I have read the response of the federal government to the Special Committee on Indian Self-Government known as the Penner Report and I am pleased to see that it is the intention of the federal government to initiate substantial changes within its own jurisdiction in its relationship with the aboriginal people. When these proposals have been fully assessed and have been the subject of consultation we will all be in a better position to know whether substantial change is necessary and in what respect. What I am saying points to the fact that a reshaping of attitudes, reshaping of government policies and legislative initiatives may prove to be as important, if not more important, in addressing native aspirations than constitutional change itself. Any new thrust by the federal government within its present responsibilities in this area must be, of course, in consultation with the native people themselves. To the extent that these changes would have impact on provincial jurisdiction then the provinces should also be consulted.

Prime Minister, the more my government delves into the issues that are on the unfinished aboriginal agenda the more we are convinced that the diversity which exists from one Indian community to another in terms of history and the state of development leads us to believe that a pan-Canadian solution envisaged by broad statements in the Constitution will simply not meet the diverse needs.



In this connection, Mr. Prime Minister, I am struck by comments which you made in your opening statement at the First Ministers' Conference a year ago when you said and I quote: "The aboriginal peoples are more likely to judge what we accomplish in our constitutional deliberations by the results showing up in their daily lives at the community level than by the pronouncements of high purpose we may incorporate in the Constitution. The closer we can bring our discussions to the detailed requirements of aboriginal communities, especially the small, frail and often isolated communities, the more likely it is we shall find effective answers to questions raised by the concept of aboriginal government." Those are sentiments which I share. I favour very strongly addressing aboriginal needs in specific localities by prescribing their own peculiar remedy. Blanket constitutional pronouncements will simply not meet the needs of the communities about which you speak in that quotation. Two days ago the Attorney General of British Columbia announced the transfer to Canada of 12,750 acres of provincial Crown land in resolution of five Indian cutoff land claims in our province. These lands are valued at more than \$100 million.

This settlement of a specific claim follows on one made four years ago with the Fort Nelson Band in northeastern British Columbia, wherein the province and the band agreed to share the revenues from natural gas pools owned by the province but lying beneath reserve lands. To date more than \$26 million has accrued to the band's benefit under the agreement. In this room today, Mr. Chairman, is the president of the company incorporated by the Stewart Tremblay Lakes Indian Band to undertake logging on the reserve and on provincial Crown land following upon its award of a tree farm licence by the Minister of Forests. With the help of your government the band bid for and won that licence in competition with two non-Indian groups. So while we are focussing today and tomorrow on the Constitution, let us bear in mind that within our respective jurisdictions we have, the Indians have existing opportunities to enhance the manner in which we live and work together.

In conclusion, I look forward to our deliberations during this two-day conference so that the implication of the issues which are presently before us can be better understood not only by the government leaders and the aboriginal representatives at this table, but by all the people of Canada who have the opportunity to watch and who are taking a keen interest in the ramifications from this meeting.

THE CHAIRMAN: Thank you, Premier Bennett. As we had agreed, I will call for an

adjournment. I am sure we will all be reflecting on the presentations thus far and we will have to take into consideration the various proposals which have been put before us, some of which overlap with others or conflict with others.

I think I should say now that it probably will be necessary for ministers to be meeting during the evening to help clarify some of the options before us, but we can return to that after we have had a full round. I just thought that some of us might want to use the lunch to reflect on the intricacy of the subjects we have before us and the arranging of them in the agenda we will have to decide upon sometime this afternoon.

LE PRESIDENT: Alors, nous allons ajourner jusqu'à 14h00.

12:35 p.m. / 12h35

FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

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(unrevised and unofficial)

Afternoon Session of  
March 8, 1984

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance de l'après-midi  
du 8 mars 1984





2:15 p.m. / 14h15

THE CHAIRMAN: Order, please.

A l'ordre. Order, please.

We will continue with our list of opening speakers and I would now want to recognize Premier Lee of Prince Edward Island.

HON. JAMES M. LEE (Premier of Prince Edward Island): Thank you very much, Mr. Prime Minister.

Mr. Prime Minister and my fellow colleagues the Premiers, aboriginal leaders across Canada and the Territories, I too, Mr. Prime Minister, want to extend to you like my colleagues before me, my best wishes on your retirement from the Prime Minister's office and from public life. I certainly want to say to you, sir, that I do want to wish you and your family many years of happiness and health as you move on to new ventures.

Mr. Prime Minister, our task over the next two days is to continue the process of defining and recognizing aboriginal rights which began in March, 1983, but which was agreed to earlier in April, 1982 when the Constitutional Act of 1982 was signed.

Many meetings of the officials and at the ministerial level have been held since we last met on the subject. We believe that much progress has been made, although we also realize that not as much as some would have liked.

We believe also that the process we have begun can with understanding and patience lead

and indeed must lead to a greater recognition of the historic place of aboriginal people in Canadian society and Canadian confederation. It is our hope that the results of our deliberations now and over the next three years will enable aboriginal people, their culture, traditions, their rights, to grow and prosper. For these reasons we regard the current constitutional process as an opportunity to renew faith with our aboriginal peoples and to guarantee them a just and equitable place in the Canadian confederation.

The objective of these negotiations is constitutional change. We believe that constitutions are not static documents, that they must grow to reflect changing political, social, economic and cultural realities.

At the same time we also recognize that constitutions are not ordinary law to be changed at the whim of temporary parliamentary majorities, or without adequate public consensus. If such were not the case, those intended to be protected would not be protected at all. Therefore, we must resist the temptation to try to do too much in too short a period of time. We cannot re-write history, but we can attempt to influence to some degree the history of the future. We have the opportunity to ensure that Canada's aboriginal people never again face the obstacles that they have faced over the past three centuries.

Therefore, our primary and immediate concern must be for people, not just words in a constitution. Our concern must be for fairness and equality for all, not abstract notions and principles subject to some third party interpretation.

Our concern must be the present realities and the future possibilities for our aboriginal people, not rhetoric about the past.

This is not to say though that constitutional entrenchment of some rights and principles should not or cannot be achieved, but it is to say that until we understand each other, each other's thoughts and their ideas, constitutional change is an elusive pursuit. Ambiguous constitutional or legal abstractions should not be entrenched and will not protect anyone's rights.

At the same time we believe that on some issues we already understand each other. One of these issues is equality. Section 35(4) of the Constitution Is a new section that was added in 1983 in order to guarantee that aboriginal and treaty rights apply equally to male and female persons. While it has been argued that Section 15 of the Charter of Rights does guarantee equality of rights for both sexes, the native leaders and especially the native women's organizations wanted to ensure that equality is guaranteed beyond any doubt. We are all aware of the past discriminations against native women and their children and we want to guarantee that all aboriginal peoples, status Indians and non-status Indians, Inuit and Metis are treated equally in the future. We felt that we had accomplished this goal at the 1983 First Ministers Conference, but we are aware that concern has been expressed by aboriginal organizations about the wording of Section 35(4).



We are hoping, Mr. Prime Minister, that this issue can be resolved and that the government of Prince Edward Island is prepared to support changes to Section 35(4) or 25(2) that will permanently resolve this problem.

Another issue we believe that future discussions devoid of constitutional rhetoric and historical interpretations can lead to sufficient understanding for constitutional change. For example, the notion of self-government for aboriginal people can, we believe, be defined in a way that all can accept.

A third level of sovereign government is unacceptable to us, but in discussion with our Prince Edward Island Native Council we have learned that some of their views of self-government may not be unacceptable to us. The same may be true of native title, although we are not yet so sure but at least further discussion may lead us to agree or to disagree and unless we can agree on some of these particulars then constitutional entrenchment of generalities is probably impossible.

We recognize, Mr. Prime Minister, that the federal government, other provinces and indeed aboriginal groups in other provinces have different problems than we do in Prince Edward Island. We will listen and we will try to understand those problems. We realize that there is still much to be clarified and correctly understood by all parties and that is why we would not aim at recommendations of major

constitutional changes at this particular meeting, rather we would agree to something similar to Premier Hatfield's proposal made in Yellowknife in January of 1984 and later elaborated on at a meeting in Toronto in February. At these meetings the Premier emphasized the need to set realistic goals for this conference and that we might not be able to reach agreement on some issues such as constitutional entrenchment. However, more importantly he has emphasized the need to establish some focus for the continuation of these constitutional talks and a need for all involved, each one of us to show political commitment to seeking resolution of the issues.

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He also suggested that we adopt a broad statement of principles to serve as a framework for our deliberations. Some of these specific principles were self-determination, language, culture and access to resources. We would like to support Premier Hatfield's suggestions. It seems like a reasonable and practical way to approach the contents of the aboriginal charter of rights. After each of these principles has been discussed in detail and all participants can see the practical implications of these inclusions in the aboriginal charter of rights, perhaps -- perhaps we can start to build the charter one step at a time. While we refer to self-government when discussing the aboriginal charter of rights we would like to raise a few more comments on this particular topic and again I would like to repeat Prince Edward Island's position on self-government. We accept a form of self-determination within the Canadian federation. The structures would no doubt be different for specific aboriginal groups and certainly in different areas of the country but they would enable aboriginal peoples to protect their languages, to protect their cultures and traditions and to develop better social and economic conditions for their people. We are interested in promoting as much self-determination for aboriginal people as is possible within the Canadian Confederation. As much use and access to resources as is possible; as much autonomy as is possible so that their cultures and communities can survive and can grow. As you, Mr. Prime Minister,

said in your opening statement at the 1983 First Ministers' Conference, "we must equally reject assimilation or absolute sovereignty as the basis for the relationships between the aboriginal peoples of Canada and the governments within our federation." We agree with this statement, but we feel that it is common ground between both extremes that will be acceptable to all participants. Four possible options for self-government have been identified by Working Group 2. Of these four the government of Prince Edward Island prefers option two. This option involves a political accord which includes a statement of principles that would guide the self-government negotiations. After this accord has been signed and the details finalized, negotiations could begin at the community level. While the 1983 Constitutional Accord and the results of the First Ministers' Conference will move us closer to our goals, much still remains to be done over the next three years. Many key issues will require more research and discussion; however, I feel that we can and will make progress and, if we are ready to negotiate in good faith, just solutions are possible. Thomas Berger in his book "Fragile Freedoms" may have hit on the key to successful completion of these negotiations. I want to quote from his text: "We must not force native development into moulds we have cast, or the whole process will end in failure. Policies or programs will only succeed if they take into account the native peoples' determination to



remain themselves -- Indian, Inuit or Metis."

Mr. Prime Minister, fellow Premiers, aboriginal leaders, unless this process, begun one year ago, is to flounder, we must make progress within these two days. Progress will depend on setting realistic goals and keeping foremost in our minds the need to forge a new relationship with our aboriginal peoples. Accommodating within Canada the cultural heritage and traditions of our aboriginal peoples is a challenge for all Canadians. For this reason, we must strive for results at all times and we must allow our aboriginal people to set their course within Canada. The results we attain will be a sign to everyone of our unity and maturity as a nation. If this happens, while we may not achieve major changes today or tomorrow, we may at least erect a signpost that will lead us in the right direction in the future.

THE CHAIRMAN: Thank you, Premier Lee. I now give the floor to Premier Devine of Saskatchewan.

HON. GRANT DEVINE (Premier, Saskatchewan): Thank you, Mr. Prime Minister, provincial colleagues, representatives of the aboriginal peoples. I want to join with my colleagues here in congratulating you, Mr. Prime Minister, on your long and exciting term in office. I have had the opportunity to enjoy several good discussions, your good hospitality, including your fine piano, and I want to say thank you. My family and I wish you and your loved ones good luck and good health in the future.

Your opening statement, Mr. Prime Minister, catches many of us a little bit by surprise because in some fashion it generates more questions than it does answers. Saskatchewan is committed to the enhancement of the position and role of Canada's aboriginal people. Our government is proud of the policies and programs it has begun for the benefit of Saskatchewan's aboriginal peoples in the short two years that we have been in office and we are committed to doing a lot more. Over the past year Saskatchewan has initiated new economic development programs at the band level. The province has continued to provide and improve a range of extensive programs in such areas as agriculture, education, employment and health services. We have been engaged in a major review of the extremely important issue of Indian treaty land entitlements. We are working earnestly towards a new provincial policy on this issue. The province has continued to support various aboriginal associations, both rural and urban, particularly those dealing with Metis and non-status Indians. These initiatives and others on behalf of our aboriginal peoples are happening at the same time as discussions are continuing on constitutional amendments concerning Canada's native people. In other words, Mr. Prime Minister, day-to-day life in Saskatchewan communities demands our constant attention and it goes far beyond attending meetings here in the national capital. So the government of Saskatchewan is moving on two fronts to address the real problems: hardships, challenges and aspirations faced by our aboriginal peoples. One, with our current policies

and programs we are attempting to enhance the day-to-day needs of Saskatchewan aboriginal peoples at the local level. Two, by our discussions here today and last year's conference and at future meetings we are working for the longer term needs of aboriginal peoples in our changing Canadian society. For instance, after last year's conference Saskatchewan moved promptly to introduce into the Saskatchewan Legislative Assembly a resolution authorizing the Governor General of Canada to issue a proclamation amending the Constitution. This was unanimously approved on November 30th, 1983. In short, Saskatchewan is prepared to move and act responsibly to address the legitimate needs and aspirations of the aboriginal people. The province of Saskatchewan is committed to the goal of aboriginal communities achieving more control and responsibility over their own lives. It is the only just objective. Mr. Prime Minister, nobody in Canada deserves to live under the Indian Act. Nobody in Canada wants to live under the Indian Act. What Saskatchewan is not prepared to do is to act without serious consideration, to act hastily without full consideration of all the implications and ramifications for both the aboriginal people and indeed all Canadians would simply not be in the best interests of all concerned. Our government believes that to define and constitutionalize rights hastily without careful thought and without being precise for the long-term consequences of such actions would be counter-productive to the endeavours we are trying to achieve. We are, after all, engaged in a four-year process and this gives us time for careful



and proper consideration of all the essential aspects before us. To achieve further constitutional change it seems to us that it is essential that any draft amendments be fully discussed with the implications fully analyzed, fully understood and fully agreed upon by all. No one here today should expect and no one here should accept less. Being precise is important.

On the basis of the work completed to date Saskatchewan does not believe that poorly defined or poorly understood amendments to the Constitution are either possible or desirable at this time or perhaps at any time. We have a special responsibility to the nation's aboriginal peoples. This is not a time to be cavalier, but to be careful and respectful of both the people we are dealing with and the document that we are dealing with. Our responsibility today does not simply concern possible constitutional amendments. Constitutional amendments alone cannot be viewed as the solution or even the majority of the solution to the issues affecting Canada's aboriginal peoples. The agenda placed before us involves a broad range of significant challenges. Saskatchewan is pleased to be called upon to meet these challenges. However, to discuss that what we are faced with will be an easy task would be a disservice to all Canadians including the aboriginal people. There are strongly differing views expressed by aboriginal associations and federal and provincial governments. These are to be expected. An example of a fundamental difference



of viewpoint is the position taken by the aboriginal associations that it is possible to immediately entrench a general right to aboriginal government within the Constitution. Governments on the other hand take the position that the concepts must be fully defined and understood before entrenchment can be contemplated. Such understandable differences of opinion, if they are to be resolved, clearly require further consultation, co-operation and understanding and not just at the federal or provincial level, Mr. Prime Minister, but indeed at the municipal level, both rural and urban across Canada. Our government is prepared to work towards that endeavour. What Saskatchewan is not prepared to do is to move quickly to bring about a short-term solution that may cause long-term problems. Saskatchewan is not prepared to jump at any one preferred solution just to be able to say we met a certain timetable.

Mr. Prime Minister, we are seeking real solutions to real problems that will have real results at the local level where they really count. That is a pledge that we can make and our province will stick to it. Saskatchewan is committed to the goal of aboriginal communities having a greater measure of control and responsibility over their lives. Such an endeavour is right, is sensible and is just.

For example, our province is open to discussion on concepts of Indian government at the community level. It is though our view that there must be effective recognition of the provincial jurisdictions involved, including municipal governments, and the need for the provinces to be effectively involved in any negotiations or decisions being made. In our view this would not be accomplished in a situation in which the provinces were presented a "fait accompli" by federal authorities.

I appreciated your remarks this morning, but again I would say I don't fully understand all the implications. With this in mind, I might make a comment on the federal response to the Penner Report on Indian self-government that was tabled in the House of Commons, or almost tabled.

In a discussion leading up to this conference, Saskatchewan and other provinces suggested that the federal government include the provincial governments in the preparation of the response to the Penner Report. This was not done. We made the suggestion because

Indian government is of major importance to our discussions on the broader topic of aboriginal government. While the federal government did have discussions concerning the Penner Committee response with the Assembly of First Nations, we think it would have been fair, responsible and beneficial to all had the provinces been consulted in a similar fashion. Such actions for whatever reason mean that opportunities at a minimum are postponed and even possibly lost.

We note with interest the commitment which the federal government has now made in its response to the Penner Report to consult the provinces. We welcome that commitment to consult. Saskatchewan comes to this conference with optimism and confidence. We think much has been accomplished over the past year, much remains to be done.

I mentioned earlier that in Saskatchewan's view the work of the past year, while substantial, does not leave us with amendments to the Constitution that can be agreed on at this time and I believe you said this morning, Mr. Prime Minister, and I quote or paraphrase: "We will find appropriate formulations for inclusion in the Constitution when they have emerged with some precision from our ongoing discussions."

If I can quote Mr. MacGuigan I believe it was in Yellowknife with respect to amendments to the Constitution, something to this effect: "It has to be done in a very particular way, that is in very particular language so courts will know exactly what it is that is included."

Similarly, he said: "It is the uncomfortableness of ambiguity. Being confronted with ambiguity and as you may be coming to realize that is my particular 'bête noire' in constitutional matters."

Mr. Prime Minister, there are those who may be inclined to argue for amendments for symbolic purposes, but my government would prefer substance over style. Saskatchewan feels that constitutions should not be amended lightly and I believe that most Canadians share that view. While we feel there is a possibility of amendments being agreed to later in this process, it is our view that we are not yet at this particular stage. For this reason Saskatchewan sees a major objective for this conference being an intensive review of the work of our ministers and officials, coupled with an understanding on how this work will be continued in the months ahead as many have suggested here today. What is now required is a careful consideration of the present roles and responsibilities of the two orders of governments, particularly in relation to financial responsibilities. It is essential that we undertake this task immediately if all the parties at this table are to have available the necessary background information for making longer-term decisions about aboriginal government.

I believe it is essential that this conference provide clear guidance to all ministers and officials on the work to be undertaken for future conferences. This is a valid and important



goal, a prerequisite to sustained economic and social development for all aboriginal people in Canada, so the question is how can we best provide such guidance. I believe that we must agree at this conference to narrow the focus of our discussions. This in order to formulate a practical and concise program to guide the work in the coming year. Saskatchewan agrees with many of the provinces at this table that there is much to do now with respect to programs, reviewing costs, economic development and development programs at the local level and these logically rank ahead of rushing on with poorly defined constitutional change.

Finally, Mr. Prime Minister, the people of Saskatchewan are represented here with enormous goodwill. With goodwill on all sides I believe it is possible for this conference to agree upon objectives in the various agenda area and to see further concrete progress achieved over the coming year.

THE CHAIRMAN: Thank you, Premier Devine. Premier Lougheed of Alberta now has the floor.

HON. PETER LOUGHEED (Premier of Alberta): Mr. Chairman, fellow Premiers, territorial and aboriginal leaders. I just wanted to make a preliminary comment, Mr. Prime Minister, which comes out of Mr. MacKinnon's reference to the 22 conferences that you have chaired, sir, and say that I have been at a number of them and one point that I don't think is too well appreciated is that you have to sit there and wear basically two hats at the same time, one being

the spokesman and representative for the federal government on policy matters and at the same time act as Chairman. Well, in the first I think it is well known that you and I have had very many differences of view, but I do want to express something that I do believe should be said in addition to the messages that I sent to you a week ago. I think you have done a superb job in being fair and courteous in chairing these meetings over the years and that has been an important part of what we really have in terms of federal-provincial relationships. It is not easy and I just wanted to say that I for one and I am sure all Canadians who observed it appreciate that.

THE CHAIRMAN: Thank you, Premier Lougheed, that is one hat out of two and if we add the one I got this morning you would probably support two of my three hats.

HON. PETER LOUGHEED: But not three.

Now, I will deal with the third hat. Prime Minister, when we met last March, we began an important process of defining in modern terms the rights of the aboriginal peoples within Canada. Significant progress was made in March of 1983 in the form of agreement on constitutional amendments designed to ensure aboriginal sexual equality, to afford new land claims agreements the same constitutional protection as existing treaties, to ensure that there would be further First Ministers Conferences to address the aboriginal constitutional issue and to affirm the principle that aboriginal people should be consulted

on any future amendments affecting them.

Mr. Chairman, on June 3, 1983, the aboriginal constitutional amendments were passed unanimously by the Legislature of the province of Alberta. These amendments, which are the first amendments to the Constitution since its patriation, were subsequently passed by the federal government and a sufficient number of provinces to ensure that they will be entrenched in the Constitution. To my mind, Mr. Chairman, this in itself represents an important achievement for Canada's aboriginal peoples and all other Canadians.

As I stated last year, Alberta does not rule out the possibility of further constitutional amendments. However, having reviewed the reports from the ministerial meetings, which we view as progress reports, we still believe that legislative, program, and policy means are the best way to accommodate the aspirations of the aboriginal peoples.

For instance, approximately 3500 Alberta Metis live on eight Metis settlements established through the Alberta Metis Betterment Act. These settlements were set aside not as a recognition of aboriginal right, but as a measure developed in the 1930s to assist one portion of the Alberta population. The Metis Betterment Act is currently being reviewed by a joint committee comprised of Metis and Alberta government representatives, chaired by the former Lieutenant-Governor of our province, Dr. Grant MacEwan. We anticipate that this review which will be coming to us as we understand in the spring

may result in the recommendation of a number of changes in the Act which could provide greater self-government on the settlements. We think that is an important step because we believe the Metis settlements are an important initiative in terms of the issue of self-government and of land base for the Metis people.

But, Mr. Chairman, what about those Metis who do not live on the settlements? In Alberta, the majority of Metis live in mixed communities, many of which are in remote locations in the province or isolated communities and I would like to emphasize that point. As I have heard the conversation here and the presentations, it strikes me the very, very wide diversity of the problems that are there and when we think in terms of taking action in terms of our province and I want to refer to some other ones we have to keep in mind both the diversity within our province, the very nature that most of these communities where the Metis reside are mixed communities, not all of them, and the difficulty of assuring that we have fairness and equity in actions that we take.

We have been looking at this challenge for quite a period of time and one practical example of our approach is in our northern communities in encouraging Metis and other residents to play a direct, active role in local government through locally elected councils. I think the Premier of Saskatchewan made an important point which hadn't been made earlier which was, let's keep in mind in the process here the implications of what we are discussing relative to municipal government.



A further concrete example in Alberta is the enactment by our legislature in the spring of 1983 of the Northland School Division Act which dramatically altered the governance of the province's largest school division, that is in the large part of the northern part of our province. The Northland School Division provides educational services to 28 predominantly native communities throughout rural northern Alberta. The new Act guarantees that northern residents, and more particularly, parents, have the opportunity to participate effectively in decisions about the education of their children. In preparing this legislation considerable consultation occurred with the residents of these communities as well as with the Metis leaders in the province.

Agreement has also been reached with the Metis Association of Alberta on a grassroots process to develop solutions to meet their valid concerns within their communities. The process is well underway. The lessons learned from these discussions may assist everyone in the consideration of aboriginal constitutional issues which have been raised here today in this forum. More importantly, we anticipate that this Alberta process will lead to additional measures being taken within our province to respond to Metis concerns. I could deal with a number of others, but these are several practical measures that we have taken to strengthen self-government for Alberta natives.

As I said last year, as a provincial government, Alberta's focus is upon its responsibilities for the Alberta Metis. However, in looking at these progress reports we have noted that other provinces, indeed many Metis organizations, maintain that Metis are a federal responsibility under the Constitution. This is clearly a matter that I think in the process of this we have to resolve. The government of Alberta also has a responsibility for the Indian people which we exercise by direct dealings with bands at their request to us. The aim of our involvement with Alberta Indians is to support the basic federal obligation established by treaties and by the Constitution. I may use an example. In June of 1983 Alberta signed a child welfare agreement with the Lesser Slave Lake Indian Regional Council in

response to that council's request to undertake the delivery of child welfare services to its members. This agreement provides a framework for co-operation with the Regional Council on Child Welfare without detracting from the federal government's important trust responsibilities for the Indians involved. Progress is being made in Alberta and I am certain in other jurisdictions. We have heard quite a bit of that already today.

In many ways it is easier to develop measures for one group of people in one jurisdiction than to agree upon constitutional provisions general enough to apply to all of Canada's aboriginal peoples, yet sufficiently precise that the implications of the provisions are evident. The diversity is really very great on this issue throughout the country and that is the challenge that we face in the national process we have here. Alberta in participating in these discussions is fully aware, and I emphasize this, of the difficulty of the task, but with a view that with time and mutual understanding positive results may be and frankly I say I believe more confidently than that will be achieved. The importance of these discussions that we are having today and tomorrow is that they are taking place, that aboriginal peoples have an opportunity to participate fully. Whether or not these discussions will eventually lead to further constitutional amendments is difficult to predict. In my view, however, these discussions and the mutual understanding, the greater

awareness we are fostering around this table and across the country cannot help but be positive to Canada. Thank you, Prime Minister.

THE CHAIRMAN: Thank you, Premier Lougheed. I now turn to the province of Newfoundland and recognize Minister Goudie.

HON. D. J. GOUDIE (Minister of Rural, Agricultural and Northern Development, Newfoundland): Thank you, Mr. Chairman. Mr. Chairman, Premiers, leaders of the territorial governments and aboriginal leaders, a year ago the first conference on constitutional issues since patriation was held to address the needs and desires of Canada's native peoples. This was a significant historical event in that it acknowledged the unique place of aboriginal peoples in the Canadian mosaic. It also reflected the genuine desire of governments to struggle with the complex issues involved in attempting to meet the aspirations of aboriginal peoples. At the March, 1983 Conference of First Ministers a political accord was signed by the Prime Minister and nine provincial Premiers, with the participation of the territorial governments and the aboriginal organizations. This required a resolution to be laid before Parliament and the provincial legislatures. I am pleased to state that the resolution was approved by the Newfoundland House of Assembly on December 2nd, 1983. The March, 1983 Conference revealed that aboriginal constitutional issues comprise an extremely ambitious and intricate agenda for discussion. A process



was therefore established as the basis for future meetings of officials, Ministers and First Ministers with the purpose of continuing our ongoing dialogue and negotiations with the aboriginal peoples of our nation. It is only through this type of forum that the many concerns of aboriginal peoples can be thoroughly understood and properly addressed. The several meetings of the working group of officials and the Ministers held since the 1983 First Ministers' Conference have, in our opinion, been a fruitful and worthwhile exercise. First these meetings have helped us to comprehend more fully aboriginal peoples' perceptions of those sections of the Constitution which directly affect their lives as aboriginals. We have also gained a greater understanding and appreciation of the aspirations of native people, their history and culture and their desire to achieve further constitutional amendments that will ensure their survival as a distinct people.

Secondly we have been impressed with the fact that the great diversity in the interests and problems of native peoples across the country will not be addressed by hasty resolutions. What we must remember is that during the past few months governments and aboriginal organizations have embarked upon a comparatively new and challenging endeavour; the positive identification and definition of the rights of the aboriginal peoples of Canada with the view of entrenching these rights in the Constitution. For some, especially the aboriginal organizations, the

events of the past year have caused an increasing sense of frustration. I can appreciate the desire of the aboriginal peoples to reach agreement at this conference to want further constitutional amendments guaranteeing a right to self-government and to land and resources; removal of the word "existing" from a present Section 35 of the Constitution Act, 1982, the addition of "aboriginal title" to that same section and the extension of the application of equality rights. I do not believe it is possible, however, to make such great strides over the next day and a half. Much more work still needs to be done in the process of identifying and defining aboriginal rights. Further elaboration of these issues and a clearer understanding of their implications must precede any constitutional entrenchment. It is the position of the government of Newfoundland and Labrador that the proposed option of community level negotiations over the next 12 months would do most to further the process of defining the parameters envisaged for self-government institutions and expedite the desired constitutional process.

Progress in the constitutional discussions may appear to be elusive and far distant, perceived failure to define aboriginal rights in precise, concrete terms or to an agreement at this conference to immediately entrench certain rights or amend various provisions of the Constitution may give the impression of an impasse. I do not believe this to be the case. It took several decades for the present

Constitution to be drafted and repatriated to Canada. These years were marked by a seemingly endless series of meetings of officials, Ministers and First Ministers. Frustration was common, but we persevered and in time achieved positive results. The task of identifying and defining the rights of aboriginal peoples is still not complete but we must remind ourselves that this present process does not end with this conference. There is a commitment by all governments to ongoing negotiations and further First Ministers' Conferences over the next several years. I believe that significant progress has indeed been achieved. We have isolated and analyzed the major issues, have listened to a variety of options to guide our future endeavours. The entire social, economic and political and cultural life of the aboriginal peoples of Canada cannot be dealt with by a few simple and hasty amendments. We are here to create a lasting legacy for future generations, not to lay the foundations for further confusion and uncertainty. Our government wishes to reiterate its commitment to the constitutional process. We wish to continue in the same spirit of goodwill and co-operation which has brought us here today. The road to achieving satisfactory amendments to the Constitution concerning the future of the aboriginal peoples of Canada may be difficult, but we must continue to build upon what we have accomplished so far. The co-operation and political will of all the

participants will eventually ensure that the aboriginal peoples of this land with their culture, identity and traditions will be able to participate fully in Canadian society.

THE CHAIRMAN: Thank you, Mr. Goudie. The Leader of the Government of the Yukon now has the floor, Mr. Pearson.

HON. C. W. PEARSON (Government Leader, Yukon): Thank you very much, Mr. Prime Minister. Fellow delegates, Mr. Prime Minister, I would like to add my voice to those of the others in wishing you all the best in your retirement. Your contribution to Canada will be remembered forever. I am very pleased to be here today, Mr. Prime Minister, on behalf of the people of the Yukon. Last year at this time I was able to inform you of the progress we were making toward settlement of the Yukon Indian land claim. Today after 11 years of often intensive negotiations, hard work and goodwill I can report that the Yukon Indian people, the government of the Yukon and the government of Canada have negotiated detailed agreements in principle on nearly all elements of the claim as signed February 2nd, 1984. The approach taken in this settlement is one which we feel all Yukoners, native and non-native, can support. We also feel, Mr. Prime Minister, that it is just and workable. It serves as a foundation for our perspective of the issues at this table. The government of the Yukon strongly supports the principle of guaranteeing



the application of equality to male and female persons. In the Yukon agreement in principle aboriginal men and women are treated on an absolutely equal basis. In our view equality should also mean that there are no inequities between groups of aboriginal people. The Yukon Indian settlement will be shared equally by all Yukon Indian people, whether status or non-status. Finally we feel that the special heritage and status of aboriginal people should not prejudice their opportunities, rights and benefits as citizens of Canada. This principle too is respected in the Yukon settlement.

Respecting Section 35 rights and the question of extinguishment it is our opinion that the public have a valid interest and right to know that a particular claim will not be raised again immediately after settlement, but this is surely only one half of the picture. The Yukon settlement, like other modern land claims agreements, would exchange a vague, relatively undefined claim or right for specific legally enforceable, constitutionally entrenched rights and benefits for aboriginal people on the terms negotiated, agreed to and supported by those aboriginal people.

In regard to the agenda topic of land and resources, the government of the Yukon supports the principle that all aboriginal people with valid, unresolved traditional claims are entitled to settlement of such claims in a manner agreeable to the parties and consistent with the interests of others. In our view, this applies to all aboriginal people, whether status, non-status, Metis, or Inuit.

There has been considerable discussion in the meetings prior to this conference about self-government for aboriginal people.

Yukoners, Mr. Prime Minister, have a special interest in self-government. We have a representative, responsible government and we are prepared to take on greater responsibility now. Moreover, we have negotiated special self-government measures for Yukon Indian people in the context of the Yukon Indian claim.

Self-government for Yukon Indian people will have an outward as well as an inward direction. Under the settlement, Yukon Indian people will have guaranteed control over their own internal affairs and special guaranteed participation in government areas of particular interest to them.

In addition to full rights as residents of the Yukon and Canadian Citizens. These and other guarantees will affect the administration in the Yukon of hunting, trapping, education, justice, health care, social services, heritage resources, land use planning, local government, and many other areas within territorial and federal jurisdiction.

Yukon Indian people will have a guaranteed stake in the government of the entire Yukon, a special interest in its administration, its constitutional development, and its future.

Clearly, the Yukon Indian settlement is an approach that is tailored specifically to the unique conditions of our region. In some cases its specific content might be inappropriate outside our boundaries. On the other hand, my government's eleven years of experience in helping build this settlement have convinced me of the value of the three general propositions, which I would like to share with you.

1. Self-government is something to which all Canadians, including aboriginal Canadians, are entitled, within the parameters of parliamentary democracy and the existing Canadian federal system.

2. Regional negotiations with the participation of aboriginal groups directly concerned and the relevant governments, leading to entrenched section 35-type treaties and I might add, other regional protections are the most responsive and workable means of achieving self-government measures for aboriginal peoples.

3. Where wide-ranging self-government measures have already been substantially negotiated and agreed to as in the case of the Yukon Indian agreement in principle, national constitutional processes for self-government for aboriginal people should respect these agreements.

Mr. Prime Minister, it is our sincere

hope that you, the other First Ministers and the leaders of the aboriginal peoples of Canada will consider our unique position and concerns.

Thank you very much.

THE CHAIRMAN: Thank you, Mr. Pearson. Now, the leader of the government of the Northwest Territories, Mr. Nerysoo.

HON. RICHARD NERYSOO (Government Leader, Northwest Territories): Thank you, Mr. Chairman.

Premiers, leaders of the Yukon and leaders of the aboriginal organizations and people and distinguished guests, ladies and gentlemen. I intend to keep my remarks very brief so as not to detract from the time that we have available to deal with the important issues at hand. However, prior to making any further comments, I would like to extend to you our best wishes from the Northwest Territories. Previously I indicated to you through a Telex that we wished you well and your children well, that we wish you to return to the Northwest Territories whenever you can because you certainly are a friend of the people of the Northwest Territories and you have certainly helped us in many ways in achieving the kind of political development that we have attained.

Mr. Chairman, the government of the Northwest Territories is once again pleased to be in attendance at this particular conference and as an aboriginal person myself and having had the honour bestowed upon me as leader of my government, I am



certainly, I guess, ecstatic about the idea of sitting at the same table as you and all the Premiers and the leaders of the aboriginal organizations to discuss an important issue that has a bearing on me in particular.

The task before us is no doubt very important and it is not one that we will see solutions immediately occurring without the leaders accepting the ability or the right of the aboriginal people to have their rights entrenched in the Constitution. I think that while we have gone further than anybody believed we would, it still amazes me that we are still not quite as far as I thought we might be. One year ago I sat here I guess with the idea that we would have amendments coming forward at this particular conference, but it doesn't seem to be that way. But nonetheless, I think out of due respect to the leaders of this country that it is important to recognize I think their efforts, all governments in this country to have recognized and to have worked so long and hard and diligently at trying to come to some conclusion on the issue and I think we ought to give the leaders and their government in each jurisdiction I think a lot of credit for paying the attention that they have over the past year to the particular question.

Although the Accord reached after last year's First Ministers Conference provides the ongoing process to go on until 1987, in reality that means only two more such conferences.

Mr. Chairman, considering the amount of work that still remains to be done, it is most important

that substantial progress be made at this conference if we are to achieve that goal.

Mr. Chairman, the topic of aboriginal self-government is an item for serious discussion at this conference. Throughout the preparatory meetings all four aboriginal nations have forcefully stated their position on this important issue. In the Northwest Territories where aboriginal people represent the majority of the population, the native majority is reflected in the Legislative Assembly and in this sense aboriginal people enjoy some sort of self-government. The constitutional model for the proposed Nunavut Territory in a form of public government in which the Inuit will have a majority and minority rights will be protected. In your document, the speech that you gave this morning, you made a very important statement and that is the government of Canada has agreed in principle to the division of the Northwest Territories and is ready to give favourable consideration to Inuit proposals. I think that is a major comment on your behalf and I think that it is something that we receive and will work diligently to conclude.

However, aboriginal peoples in other parts of Canada are not as fortunate as those in the Northwest Territories. It would be my hope that we could closely examine the options put forward by the aboriginal representatives at this conference and -- or to arrive at a solution that will meet the needs of aboriginal peoples.

Mr. Chairman, the Territories have made

substantial progress in exploring and developing various models of aboriginal self-government. We were, therefore, particularly disappointed to note that the Territories are excluded from the process contemplated under the draft Section 35.2 tabled by the Government of Canada today and we will of course be making further comments on the federal proposal at the appropriate time. We are, however, greatly encouraged by the proposal of Premier Hatfield to entrench in the Constitution the right of aboriginal peoples to self-government and support his proposal.

Mr. Chairman, I wish to stress that the repeal of sub-sections 42(1)(e) and (f) of the Constitution Act 1982 is still very much a concern of the government of the Northwest Territories. Subsection 42(1)(f) will directly affect the aboriginal people in the proposed new territories in the North in their aspirations towards provincehood. We do not feel that it is fair that the people of the Northwest Territories should have to carry a more onerous burden to achieve their aspirations towards provincehood than did the people of other provinces created from the old Northwest Territories.

Mr. Chairman, Canada is a signatory to the International Covenant on Civil and Political Rights. This document guarantees to all people the right of self-determination. But this right is of little value to the aboriginal peoples of this country without having a more meaningful say in how they will be governed, who will govern them and what powers their governments will have. The Universal Declaration of Human Rights, the forerunner of the International Covenant, was adopted as far back as 1948. Surely after 36 years it is time that

the covenants contained in that declaration were given true meaning in Canada.

I hope that the spirit of goodwill and mutual respect which has characterized the preparatory meetings will extend to our deliberations over the next two days. I would urge the federal government and the provinces to listen to the concepts and ideas of the aboriginal people and be willing to venture into unfamiliar areas with the goal of reaching a resolution which is satisfactory to all parties.



We have the opportunity to reach political solutions. We have the opportunity to clarify, elaborate the rights of the aboriginal peoples and that is our mandate. We must indeed accept the responsibility and earnestly strive to arrive at solutions which will make our Constitution a source of pride for all Canadians. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you very much, Mr. Nerysoo. Well, ladies and gentlemen, we have completed our round of opening statements and, as I had said at the beginning, we probably now should reflect on the ordering of our business over the next day and a half. We do have an agenda which has been negotiated and agreed upon, but I suggested earlier it might be useful to have a short exchange of views here on that agenda, some representations have been made to me to change the order already. We are obviously dealing with two types of questions, some rather well defined. I think, for instance, of the first item on equality which is the first item of the agreed agenda which we could deal with first or we could deal with last. It is a question to decide in itself and we are all aware of the importance of this particular day being International Women's Day. We do not want to avoid dealing with it, but it is not an easy question, but a simple one and we could hear views on that and dispose of it. Likewise on the notion raised first by Mr. Bruyere I think on the Metis. Do they come under federal or provincial jurisdiction and should they come under federal or provincial jurisdiction? Just thinking

of the statements we have had apart from Mr. Bruyere I think Premier Pawley, for instance, leaned towards suggesting they should be under federal jurisdiction and if I followed Premier Lougheed well he had a very, I thought, clear demonstration of what his province thinks is their duty or their obligation, political or constitutional, to the Metis. So that is a subject in itself that at some point we would have to discuss. I stated this morning in my opening statement a view which is that held by the federal government based on the judgment of the Supreme Court and the advice we received from our legal counsel as to what the Fathers of Confederation meant when they wrote in 1867 that the Indians were in Section 91 of the B.N.A. Act, but whether they wanted that or not doesn't prevent us from changing it if we want to change it. It is a subject we have to discuss. Other like subjects, perhaps the one brought up by Chief Ahenakew on extinguishment. I dealt with it too and it could be a subject discussed in itself to further enlighten each other. Then there are the other categories such as self-government with which we have all dealt in one way or another. We made some proposals. Premier Hatfield, I think, suggested they didn't go far enough in their constitutionalization. Other Premiers suggested that perhaps they went too far and that we didn't need to constitutionalize in this sense but it is certainly a more complex subject since under self-government one would have to discuss

territorial questions of land. One would have to discuss questions of aboriginal title and so on. So as Chairman I am appealing for perhaps a few short interventions, no more speeches because we didn't only come here to read prepared speeches to each other. We came to try to come to grips with some issues and I would appreciate a few short interventions at this point and then as Chairman I will have to propose an order of the agenda. I have Chief Ahenakew of the AFN and I have Mr. Daniels of the NCC. Let's start with those two. Chief Ahenakew.

DR. DAVID AHENAKEW: Thank you, Prime Minister. I note with great interest that you have chaired 22 of these meetings. It has taken Canadians 54 years to finally patriate the Constitution which seems to me that progress has been very slow and I believe, Prime Minister and Premiers, the very reason for the delay and the long process is the uncertainty about your legal, constitutional and historical position on the land. I suggest that the uncertainty still exists around this table. However, I want to respond as quickly and positively as I can regarding your statement this morning. The First Nations are pleased at your statement on the recognition on the right to self-government is couched in terms that are more firm, more clear than we have ever heard before. Clearly the fact that the conference is critical to the identification and recognition of self-government was recognized in your statement. Further the precedent



has been set in the confirmation of your personal involvement to deal with these matters at the highest level of the federal government. We are pleased to hear, Prime Minister, and from others, from you and from others the possibility of constitutional accord on specific amendments exists. We feel that we should begin immediately to determine whether suitable construction can be developed by our respective officials that would allow us to make that possibility a reality. We are particularly pleased to note in your statement, Prime Minister, your recognition of the importance of language, culture and education as vehicles of our continuity as distinct, self-governing peoples. We are pleased to see the proposals for the program review, but I re-emphasize the goal of such a review must be to enhance self-government. The review must be results oriented. We don't need another study of Indians. While we are pleased with the spirit and intent of your opening statement, there appears to be a gulf between the wording of the proposed accord on the one hand and the spirit of that statement as well as the goals of the First Nations on the other hand. It is encouraging that you have recognized our concerns with the extinguishment policy. However, we feel that it is necessary to do more than just find another word to describe the conclusion of the process. We feel that it needs to be amplified, that the process of treaties as between nations and the conclusion of the process is a political agreement. Therefore the wording would reflect the intent which is co-existence and sharing between our First Nations and



Canada. We expect that having recognized and agreed that there is a problem we can work together to resolve it. In the interests of quickly putting some people to work to resolve details let me briefly flag some of our concerns. The wording of the accord appears to close the door on the consideration of recognition of a distinct order of First Nations governments. A construction will have to be found that leaves that door open. It is necessary to talk about rights, not just needs. We will need to discuss the need to establish fiscal relationships. There is concern that the accord contemplates a recognition of only delegated powers implemented by the federal and provincial legislation. The First Nations feel that there must be a stronger statement of federal responsibility on the status of treaties. There are certainly other concerns and they are identified in our own proposed amendments which I am tabling now. The First Nations feel that the general thrust of the Prime Minister's remarks and those of some of the Premiers are in line with what we have been proposing. However, we feel that more detailed work is needed. The First Nations feel that there is an opportunity for agreement based on the goodwill evident in the Prime Minister's proposals for us to attempt to negotiate acceptable constructions for an accord for an amendment. I suggest that our people work on that task. Thank you.

THE CHAIRMAN: Thank you, Chief Ahenakew.  
Mr. Daniels.

MR. HARRY DANIELS: Thank you, Mr. Prime Minister. In trying to respond to your speech and your talk about the agenda items there are some redeeming qualities in your opening address and some that we disagree with. The programs you talk about can be taken care of in a bilateral process and we would have no problem with that. However, we are here to talk about rights and the rights of the aboriginal peoples to be identified, defined and put into the Constitution of Canada. Now that brings me to the agenda items and in view of what you have said in part of your statement we have to say categorically from the Native Council of Canada's point of view we would like to see equality remain first on the agenda. You stated in your speech, Mr. Prime Minister, that the Metis were a federal responsibility and by that, having been the one who negotiated the Metis end of the Constitution, I meant at that time Metis and non-status Indians. So I take it to mean the Metis and non-status Indian people are a provincial responsibility. Now, in those terms we are also talking about equality. We cannot have equality of aboriginal peoples if one set of aboriginal peoples becomes second class aboriginal peoples. It seems -- not hypocrisy -- but we are dealing with two constitutions here. We are dealing with the Canada Constitution Act, 1982 in which Indians, Inuit and Metis are the aboriginal peoples of Canada. In Section 91(24) of the 1867 Act, 91(24) says the federal government has responsibility

for Indians and lands reserved for Indians. To put it into perspective we must talk about equality among all aboriginal peoples and not leave some hanging as second class citizens, second class citizens in our aboriginal community. So what we have to do is change Section 91(24) to read "aboriginal peoples and lands reserved for aboriginal peoples." It does not necessarily follow that immediately the Metis and non-status Indian people would get large tracts of land, large amounts of money. These are the bogeymen that run out of the closet when we are talking about those terms. What we are talking about is the equality of people here and to use your phrase we are talking about a just society. It can't be just for some aboriginal people and not for others. It has to be for all aboriginal peoples or else we are dealing in hypocrisy and the Native Council of Canada and my constituents or the constituents of our council find some aspects of your opening address very good and things that we can agree with and we think would generate quantum leaps forward and in the last ten years we have taken a quantum leap forward with regard to our relationship to the federal government and the identity of the Metis and non-status Indian people of Canada.

I suggest, Mr. Prime Minister, that we keep the equality clause there, because I don't want to become involved, nor do I think anybody else around this table, in store-front politics whereby we look at the window of the world through the television lens and it looks good. We talk to the Indians, the Metis and the Inuit but at the same time leaving some of the people out.

Now, either we are aboriginal people or we are not. I think we have agreed around this table and by the actions of the participants at this table that the Metis and non-status Indians are aboriginal people, so if we are intent upon being just in our time then we have to talk about equality in the real sense of the word. We do not have equality for only parts of society. At least I don't want to see that in our aboriginal community. I don't care if you use the generic term "Indian" and under "Indians" it means all of these people but we have to have an understanding here, but my preference is to change it to "aboriginal peoples and lands reserved for aboriginal peoples" and it should not be perceived as a threat to your government or to provincial governments. In tri-partite arrangements we could talk about land, we could talk about resources, and we could set up mechanisms that would follow the process with very rigid parameters and say, here is where we are going. It would give this project focus and we could achieve collectively what you set out to achieve, Mr. Prime Minister, and which we applaud you for and we applaud the Premiers of the provinces for the



steps forward they have made. I notice the Premier of New Brunswick, Mr. Hatfield, has made a quantum leap forward in his attitude since two years ago. You yourself in '69 were unsure. In '84 it is a whole different ballgame. We want to help make those quantum leaps forward positive ones for the aboriginal community and positive ones for Canada so that we can and there is this attitude that we live in a welfare syndrome. Let's make it a positive thing that we become contributing factors in the Canadian mosaic and we can only do that by talking about equality amongst the people we are going to put into the constitution.

I respectfully suggest, Mr. Prime Minister, that we leave equality as the first item on the agenda.

THE CHAIRMAN: Mr. Amagoalik and then Mr. Sinclair.

MR. JOHN AMAGOALIK: Mr. Chairman, I believe your question was whether or not we should discuss equality rights now or later. The ICNI doesn't have any strong position on that and people are making comments about the opening statements this morning so I would like to do that as well.

We were very encouraged by some of the opening statements this morning. It indicated to us that there is quite a bit of political will this year, much more than last year and we are encouraged by that, but this afternoon we have been a little bit disappointed by some of the provinces who are

still determined to talk about community programs and provincial legislation. We are not here to talk about community programs and provincial legislation. We are here to talk about constitutional amendments and I hope we will stick to that.

Some of the provinces indicated that they were in favour of experimental community negotiations. That to me is equivalent to Ronald Reagan's decision to do more studies on acid rain.

That, Mr. Chairman, is our comments.

THE CHAIRMAN: Thank you, Mr.

Amagoalik.

HON. WILLIAM G. DAVIS: I want to support the latter part of his statement, Mr. Chairman.

THE CHAIRMAN: I will tell my friend, Mr. Reagan.

MR. JIM SINCLAIR: I think I should comment a bit about, seeing you are talking about written statements and I can't read to begin with, so I have to talk from the cuff.

I think one of the things that I wanted to bring up was the fact that during your speech this morning you mentioned about the Metis as being disadvantaged people. I take offence with that for a number of reasons. Number one, when the Metis fought hard to get in the Constitution, we were not here because we were disadvantaged people. We were here because we were aboriginal people. We were recognized.

Prior to 1968 and 1969 and into some of the early seventies I attended a number of the poor

people conferences and welfare conferences in Canada to deal with disadvantaged people because that is the category we fit in at that time. We were lumped there along with the mentally retarded and the handicapped and it seems a sad situation if we are going to be put in a complete circle and back into that welfare type of syndrome.

I also have problems in trying to understand where the federal government's responsibility lies and where it begins and where it ends. In your approach you talk about self-government which I wholeheartedly agree with. However, it seems to talk about self-government and then leave us to the provinces to decide which type of legislation will take place to provide that self-government and I would maybe like to take a look at your statement further, the proposal you are offering and then build on that to make sure that the kind of self-government you are talking about is clearly spelled out so that the provinces cannot renege on responsibilities when they start providing legislation to enact that self-government and the provincial participation.

I also get the sense of the feeling that people at this table when they talk about the Metis and they talk about us as an economic problem, rather than a political problem, it reminds me of the Keegstra approach in Alberta. When the people around this table are trying to say the Louis Riel war never really happened. It was never really a holocaust, the Metis were never really oppressed, the

Metis were never really beaten in the war and I think we have really got to say face and understand that history has oppressed us and since we have lost that war we have been sitting back for 100 years waiting for this opportunity.

The thing I want to get across today, we don't want to waste that opportunity so that we can become part of the Canadian society. I want to make that very clear because I said last year that we were outside of Canada. We were never allowed into Canada. We were outside of Canada and with the inclusion of the Metis in the Constitution we were therefore brought in and we would like to negotiate our terms to be allowed into the Canadian system and part of those terms of course is a form of self-government.

I think when we begin to talk about self-government I want to relate again to your approach of what you said last year, not sovereignty but not assimilation. Somewhere between those two extremes lies the solution and I think that is important. I would have to say that your approach to self-government is a good one. I would have to say that the attempt that Peter Lougheed is making in regard to building the settlements in Alberta and even of this Constitution having some leverage on that, I would like to see the building of a self-government and that land base more to the Metis control. I want to see that idea at some point entrenched in the Constitution so no one can break those rules or those laws once they are agreed upon.



Those are the important things to me and I think we have got to move in that direction otherwise we are doomed and I don't want to see a repeat. I don't want to see the federal government renege its responsibility for Metis until it is clearly spelled out what the federal government responsibility is, to how far they carry that responsibility, whether it is just to make sure that the rights of the aboriginal people or the Metis are entrenched in the Constitution and what type of input the provinces have after that point. Those are things I think I want to see discussed. I am prepared to discuss those ideas and I am sure we can reach some decision before tomorrow night.

Thank you.

THE CHAIRMAN: Well, I think we have heard enough to conclude, if you will support me, that we should begin with the first item, equality, which will permit us to deal not only with equality between the sexes but equality between aboriginal groups, to use Mr. Daniels' point.

I do want to tell Mr. Sinclair that the use of "disadvantaged" in my statement this morning may be given different interpretations. I will tell you frankly I was looking for a word to justify a special federal action in an area where at least some provinces and the federal government believe that we don't have a constitutional responsibility. I emphasize as I told Mr. Daniels earlier, that maybe we should have, and if so that can be discussed and changed, but I would like to hear views of the various participants around the

table as to whether that should be considered and it obviously wouldn't be decided today, but it could be a subject of important on-going discussion.

I sensed a little bit of annoyance on your part, Mr. Sinclair, because I used the word "disadvantaged". I notice you used the word "oppressed". I am not sure if one isn't at least causily related to the other and if there really is a reason to be more offended at being a disadvantaged than an oppressed people, but I must add also that I smiled when Mr. Daniels said that the Metis were second-class citizens. The reason he gave is that they came under provincial responsibility rather than federal responsibility, which means that there are a lot of Canadians that are second-class citizens because except those who live in the Territories they all come under provincial responsibility as well as federal. Mr. Davis claims that Ontarians are not second class and he is talking on an economic sense and we understand that.

MR. SINCLAIR I think the word "disadvantaged" seems to apply to people with a social problem. The word "oppressed" applies to people with a political problem.

THE CHAIRMAN: Well, if that is your view of things I will seek a better word than "disadvantaged", but I can assure you that a lot of people with legal problems feel that they are disadvantaged and I don't think it is a great insult to link you with the females in the society who also use the word "disadvantaged".

Anyhow that is a secondary discussion and we will carry it on between ourselves. I think the conclusion I would reach if the participants are in agreement, is that we will begin with agenda item one being equality rights. Then when we have done that we could consider if we want to I think follow Chief Ahenakew's discreet suggestion that we look at the general problem of self-government in terms presented by our statement this morning, but we will meet that problem after we have finished agenda item one.

I might say a few words by way of introduction on the report of the working group which considered this item and it seemed to set out, according to my reports, four basic issues. First, whether the present Sections 15 and 28 and proposed Section 35(4) adequately extend the principle of sexual equality to all rights of aboriginal peoples. Second, the possible conflict between individual rights in non-discrimination and collective rights which is I think the problem addressed by the Native Council of Canada. The third, the extension of other principles of equality such as those contained in Section 15 of the Charter to the rights of aboriginal peoples and four, the question of reinstatement of the Indians who have lost their status. I am told that there was a general consensus that insofar as the second and third issues were concerned participants felt they might be dealt with more effectively at a later stage of the process since they are bound up closely with considerations of aboriginal self-government. The fourth issue having to do with reinstatement is not a constitutional issue in itself, though if we do get to dealing with that certainly Mr. Munro, the federal Minister responsible for Indian Affairs, will want to say that we recognize that the abolition in the Indian Act of Section 12(1)(b) for the future must be defined in terms of who will retain status as a result of a mixed marriage and for the past we do realize that we should



contemplate a measure of reinstatement to be defined and discussed. So I think in order to save time it might be well to have a quick round of the table first on the sexual side of discrimination and equality to see if there is a disposition to have a constitutional amendment beyond the one we agreed to last year in Section 35(4). If there is such a disposition, then we will have to study texts and I think that could be done by our Ministers of Justice or Ministers for Interprovincial Affairs at a meeting later, but could I first seek if we do have something like seven provinces who think that the Constitution as amended last year is not yet clear enough and that there is a desire to look at further constitutional amendment on that particular aspect of discrimination?

Mr. Hatfield.

HON. RICHARD HATFIELD: I think there should be a meeting. I think the issue we put forward is real progress but I think we should be absolutely sure not to make what I think is the mistake we made last time. That is a personal opinion. I feel very strongly that this matter should be cleared up. It is something that does really concern the native women particularly and it does concern me as well because I do think that the section as we drafted it in the Accord is open to a lot of questioning and interpretation by the courts.

THE CHAIRMAN: Could I have quick views on this? Premier Hatfield suggests we do refer the question to our Ministers. What do the

other provincial Premiers feel like?

HON. HOWARD PAWLEY: I agree with Premier Hatfield's view that we should defer this to our Ministers.

THE CHAIRMAN: Mr. Lane?

HON. GARY LANE (Minister of Justice, Saskatchewan): Mr. Chairman, we are of the view that it may be premature to be amending an amendment which is not yet in place. I question the desirability in the context of amending the Constitution whether that fact of itself is desirable. We looked at the commitment this morning to make the amendment to the Indian Act which is the basis of much of the problem and it is our view that we should await further modifications until we see the effects of the implementation. If there is an effect that is not desirable by all of us we are prepared to reconsider it but we just think it is unwise to amend an amendment that has not been proclaimed yet.

THE CHAIRMAN: Mind you I think your second argument is one which would be more substantive. The first one is a technicality because we could always discuss it and amend it later but I accept your cautionary words. Nova Scotia, would you be prepared to refer it to the Ministers?

HON. EDMUND MORRIS (Minister of Social Services and Minister of Native Affairs):

Yes, Mr. Prime Minister.

As Premier Buchanan indicated this morning, we have placed before the conference an alternate wording for

Section 35 but perhaps that will not recommend itself to all, but we do think in good spirit we should now make an effort to further amend Section 35.

THE CHAIRMAN: Mr. Lougheed?

HON. PETER LOUGHEED: Mr. Prime Minister, we are inclined in Alberta to share the view of Saskatchewan but I just wanted to make an observation that this really proves something I have been concerned about for some time. It is one thing for us to sort of agree on a concept here at a conference such as this and what we are trying to do. It is quite another thing to draft I won't say it on the back of a cigarette box, but in the environment that we had a year ago. I really think that it proves that we should be very careful about the way in which we handle these matters and this really establishes that in my mind. To agree on what we are trying to do and make sure that when we are coming down to the question of the specifics -- I know the desire you have to finalize matters and get the commitments but I am still uneasy about it.

THE CHAIRMAN: Well, there is a good piece of logic. Even as one who is prepared to present a new amendment on it I think you have suggested that those who are arguing we need a new amendment are supporting the case of those who said we shouldn't move too quickly on constitutionalization. So in a sense you are leaving them with a great choice, Premier Lougheed. Premier Lee?

HON. JAMES M. LEE: Mr. Prime Minister, as I indicated earlier in my opening remarks, this being

the first amendment only a year old, I think it is important that we clarify this. There seem to be enough suggestions around in draft form that I would hope our officials would be able to come together and clarify this important amendment and hopefully make it acceptable to everyone.

THE CHAIRMAN: Mr. Smith, British Columbia.

HON. BRIAN R.D. SMITH (Attorney General, British Columbia): Mr. Chairman, there have been many meetings already of officials on this issue and I don't believe that a meeting of Attorneys General this evening is going to add very much. We support the concept of equality and the position that you have taken in your opening statement and if a judicial interpretation were rendered that showed that those sections read together, 15, 28 and 25, were inadequate we would most certainly support other remedial measures, but we support your position and also the amendment to Section 12 of the Indian Act and do not believe a meeting tonight would be productive.

THE CHAIRMAN: Just for clarification I agree you stated my position correctly but I went on to say if there was a desire to introduce a further amendment we wouldn't oppose it, but you are correct in saying that we believe the charter does cover this as last year's amendment does.

HON. BRIAN R.D. SMITH: We believe also, Mr. Chairman, that is the position of the AFN which was similar to the position in your opening



statement that the present drafting is adequate.

THE CHAIRMAN: Any other views?

HON. RICHARD HATFIELD: The difference between the meetings we attended as Ministers and this one is that it is customary for the First Ministers to direct their Ministers and the problem we faced at the other meetings was that we did not have any direction. I speak as a Minister now. We did not have any direction from First Ministers, particularly the federal government so I don't think any comparison should be made with the other meetings. That was the argument. We had not had direction from our government to change. That is what I heard.

THE CHAIRMAN: Well, as you know, I have always been reticent to give the provinces directions as to what they should do personally.

HON. RICHARD HATFIELD: This is one direction I would appreciate.

THE CHAIRMAN: Mr. Lévesque?

HON. RENE LEVESQUE: On equal rights?

THE CHAIRMAN: Yes.

HON. RENE LEVESQUE: If you find women's rights, it is a kind of judgment on this Constitution of yours. If you find women's rights in bits and pieces in 15, 28 and 35 and nobody knows what the hell it leads to, no wonder people are talking about legal eagles to start looking at that again in detail and no wonder women are not exactly happy about it. Our feeling is very simple. The stronger and the clearer we can make the situation in a field which is so essential to a really civilized society the better.

If it comes to that, we certainly won't object to any entrenchment of that. We won't object, that is for sure. Now on the Québec basis for every aspect of equal rights that we have anything to do with we will keep on advancing as quickly as we can. Maybe it can help others. I don't know. Some things we have done have not been that much of a nuisance. I think in some cases there are flattering imitations to some of the things we have done. We will keep on trying to do our best.

THE CHAIRMAN: Whoever speaks now really tips the balance but I wish they had talked earlier because I have got six on one side and three on the other. Whoever goes in one direction or the other gets it.

HON. D.J. GOUDIE: Mr. Chairman, the position of our province is first of all we go for equality of rights and secondly there are adequate provisions now to prohibit sexual discrimination.

THE CHAIRMAN: There you go. I think I have four provinces saying at least at this stage that they are not anxious to see a constitutional amendment to a constitutional amendment we made last year and which will only be proclaimed at the end of May so I don't think this should be interpreted by anyone particularly on this great day as an opposition by anyone to equality. I take it to mean that equality is there in the Constitution in terms of sexual discrimination and for the time being it would seem that we do not have seven provinces representing

50 per cent of the population that would want to have a further amendment on the same subject. As

Mr. Lévesque said, we already have three provisions in the Constitution dealing with it so let us, subject to anyone wanting to re-open it overnight or tomorrow, I hope you won't be lobbied too strongly, let us go to the other aspect of equality, the one that was stated I believe by Mr. Sinclair and by Mr. Daniels: should equality be put into the Constitution in the sense that the Metis would be treated as the Indians and Inuit are under Section 91 and therefore that to that extent they have a special status under the Constitution as peoples?

I remarked earlier that Premier Lougheed in his statement had made the case that the provinces could and should deal with this if I understood him well. Premier Hatfield made the opposite case. Can I have other views?

HON. PETER LOUGHEED:

We thought it was our responsibility as a provincial government to work with the Metis people and improve their conditions within our province, but if it is the view of the federal government and the groups involved that it should be otherwise we are prepared to live with that obviously.

THE CHAIRMAN: You would be prepared to consider a constitutional amendment which would include the Metis under Section 91(14) is it -- 24?

HON. PETER LOUGHEED: Rather than refer to it as the constitutional amendment. The concept that the federal government having responsibility.

THE CHAIRMAN: I don't want to nail anyone down on a particular amendment now, but I want to make sure that we understand what the Premier is doing.

I believe Mr. Chartier asked for the floor.

MR. CLEM CHARTIER: Yes, Mr. Prime Minister, but if there are other Premiers who want to make their views known, I could wait or I could go now. I could wait.

THE CHAIRMAN: I think following on what Premier Lougheed said, we are not



making a decision on this now. We are exchanging views and it would be important if we feel that this conference wants to discuss this subject matter we would have to examine I guess before anyone could answer what are the legal consequences of that position, what are the economic consequences, what it will mean in terms of lands, will there be an authority given to the federal government on lands as is the case for Indians and these are subjects which are quite intricate and would have to be dealt with on an ongoing way, but I think it would be useful to hear further views on it.

HON. RICHARD HATFIELD:

Mr. Chairman, I am prepared to recognize the Metis people as such for I think as I have learned for very good and defensible reasons. I think that it would however raise a question which is another reason why I would support it, because I think that question has to be raised, what are we going to do with those people who as I say, were victims of the present Indian Act which it has now been announced is going to be amended.

I think -- so I would favour -- but I think knowing if we really are interested in providing Canadians with a reasonably good standard of living and in knowing the limits of the resources, the limits of the revenue base of a province like New Brunswick and I know that there are other provinces which don't have much larger revenue bases than we do, it seems to me that if we genuinely are interested in extending equality and recognition then they have to be the responsibility of the government of Canada.

THE CHAIRMAN: Well, I notice you came back twice with the argument -- with the notion of being victims of the Indian Act. I see

your point, you are thinking of those who lost status because of marriage -- a mixed marriage, but I must point out to you that overwhelmingly of the Metis are not people defined in that way. Certainly all the Red River Band of Metis do not define themselves par rapport the Indian Act.

HON. RICHARD HATFIELD: That is why it should be recognized.

THE CHAIRMAN: Then after we have amended the Indian Act in the sense that we said we would, you have got to realize that there still will be people who will lose status in one way or another and there will still be mixed marriages of many kinds, so do not assume that the problem of whether Metis are Indians or not in the sense of subsection 94 will be solved simply when we amend the Indian Act.

HON. RICHARD HATFIELD: Understand me, I recognize for all kinds of different reasons that Metis people should be recognized just as you propose. I am only adding that we can't ignore the fact that there are people who don't have the claim to Metis status or Metis culture or Metis history who we are still going to have to provide for.

My third point was that I do believe they should be the responsibility of the government of Canada because of the reality of the financial situations particularly in some of the smaller provinces.

THE CHAIRMAN: Well, just pursuing the discussion, the social inequalities as

I argued to earlier still would have to be dealt with in one way or another and we are not arguing that they are not under federal jurisdiction, the Metis, in order to escape that obligation. I think I made that point clear in discussing with Mr. Sinclair, so that really isn't the point. The point is that provinces who argue that way will in effect say that hundreds of thousands of citizens of the provinces will suddenly become more directly under federal jurisdiction than the other citizens and that is not without consequences as I am sure the Premiers realize and that is why I say we don't object to an amendment which would take them over as it were, but it does have a lot of consequences in terms of maybe moving towards a more just but less equal society. There will be less second-class citizens to use Mr. Daniels' expression. Only the whites will be second-class citizens.

Yes, Premier Pawley?

HON. HOWARD PAWLEY: Mr. Prime Minister, if I could make a suggestion; I think there certainly are historic and constitutional reasons why indeed the Metis people could very well be considered to be the responsibility of the federal government under 91(24) of the Constitution.

On the other hand, you have pointed out to us some consequences, the complexity of the issue and I would suggest, so that we not become too bogged down at this particular point, if we could refer this matter to the ongoing process to look

further at the consequences that might be involved. I would agree with Premier Hatfield that there certainly would be cogent reasons for including the Metis under the provisions of the Act, but I would prefer to see us refer this to the ongoing process to examine the consequences that you made reference to that could flow from that kind of decision.

THE CHAIRMAN: Mr. Wells?

HON THOMAS L. WELLS (Minister of Intergovernmental Affairs, Ontario): Prime Minister, I think we would support the position that there should be some further discussion here. We are looking at equality and whether in fact there is a denial of equality or not, there is a perceived feeling that somehow or other we are dealing with the Indians, status Indians in one sense and the Metis in another. There are certain symbolic things that can be done whether in fact they achieve anything or not, that will, I think, take away some of that feeling of inequality.

Now, I think a study of 91(24) would be justified and it would be justified to look at including Metis in that section. 91(24) was written at a time when Indian was mentioned in the Constitution and aboriginal peoples and a definition of aboriginal peoples as Indians, Inuit and Metis was not in the Constitution and that was added in 1982. We are now looking at various things to achieve this equality and perhaps updating 91(24) would be good.



I think that what we are also suggesting is, I think this is what Premier Hatfield is getting at, that when we have our discussions about self-government and that we want to have the federal government discussing self-government as it pertains to the Metis along with the province, that this cannot be just left to a two-party discussion of the provinces and the Metis, that all of these things are grouped together and we are all part of it as we looked at the rights and responsibilities of the aboriginal people.

Now, I am not a lawyer so I wouldn't presume to give a definitive opinion, but I have been told that changing 91(24) to include Metis would only be a legislative change and would not indicate any fiscal responsibility. Now, we all know that when you change a legislative responsibility the fiscal consequences very often follow. I think in strict legal terms including Metis in there wouldn't indicate that the federal government was assuming any greater physical responsibility for these people unless there was a negotiation of this later on. What I am suggesting, Premiers, is, I think, Ontario would want to see some discussion of this in the ongoing process or over the next few days if we are looking at things in this discussion that can signal our belief in equality.

THE CHAIRMAN: Just on that point, I suppose it wouldn't necessarily involve a fiscal transfer from the provinces to the federal

government. We would settle for a land transfer and I am sure the Metis would too, but these are, as you say, subjects which can be discussed and analysed.

On self-government maybe we don't see eye-to-eye but, as I said this morning, I would agree that self-government discussions should proceed, but they should proceed differently as to whether Metis fell under one heading or another, because clearly if we want Indian self-government or Inuit self-government, it will mean a form of delegation from the federal government, but in the case of south of 60 hopefully parallel delegations from the provincial governments within the framework of federal legislation. I argued that contrary would be the case towards the Metis, that the framework legislation should be provincial and of course we would have to tie in to make federal legislation compatible so, therefore, we shouldn't draw the conclusion that from this discussion will slow the march towards self-government. We should continue marching towards it, but even more important, I would make the point that this discussion should not be used by any of us as an excuse to not address the socio-economic problems which I described this morning. The Metis as of now do not live on reserves. They do not have status. Maybe they should and maybe they should be constitutionally ir, but as of now they do not, and while this discussion goes on I put it to the provinces that they still have the same duty towards the Metis as they do to any citizen of their province in terms of providing services.

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It may be that because of their oppressed status, Mr. Sinclair, the federal government would add a little more, but as of now these oppressed people are not on federal lands in reservations as it were. Mr. Nungak asked for the floor.

MR. ZEBEDEE NUNGAK: Mr. Prime Minister, I don't want to be seen to be intervening or interfering with the flow of the meeting as it has started. I have a question on a point of procedure because I am afraid that if we are now on to the agenda proper I might not have a chance to say what I wanted to say before we got on to the agenda. Your first question after the round of opening speeches was whether agenda item No. 1 should stay there or whether it should be deferred to No. 4, but in asking that question consequent speakers made general comments and general observations of what has been said so far which is useful in itself in helping to set the tone of the discussions before we get to the agenda outright. I had some observations of that type to make, but I am asking you whether the time has passed for those and whether we are now on the agenda proper or whether there will be another opportunity later on to make those kind of general comments from what has been said.

THE CHAIRMAN: I would certainly recognize general comments at this point. I had thought we were going on to item 1, but I am sorry, I did not give everyone a chance to make those general comments, particularly they have been nice so far so I will take a chance and hear one more or two more. (Laughter)

MR. ZEBEDEE NUNGAK: I will try not to



disappoint you, Mr. Prime Minister. As I say, I don't want to cut the flow of the conversation, the dialogue that has been going on prior to my speaking, but previous speakers from the AFN and the other aboriginal groups made their observations and I would just like to make a few myself. Hearing the presentations and the speeches made by the various governments and provinces, it is my observation that there are many previously unmentioned positive aspects to their presentations that we would like to pick up on later as the conversation and the dialogue and the exchange progresses. But I would like to address the concerns expressed by some of the governments about caution, about not being too hasty and not trying to go for simple and hasty resolutions that may have detrimental consequences later on. I think Premier Devine from Saskatchewan expressed a concern that he is of the view that poorly defined or poorly understood concepts cannot be supported by Saskatchewan until they are well defined or well understood. I think one of his words was "let's not be cavalier" and I think that was echoed by other governments who expressed caution, who expressed the fact that they do not think that any amendment or entrenchment should be hasty. I would just like to make an observation there by saying that there is another side to that facet which is that we should not shrink from the task either just because some amendments or some provinces express their caution. The Inuit have been forthright and consistent all

throughout these meetings in trying to draw out the courage or the right stuff in us that will equip us to deal with setting things right, help us to accomplish the task at hand. So I guess what I am trying to say here is that we have been fully prepared. We have been doing back flips and somersaults in front of the government to explain ourselves so that there will be no misunderstanding, to define what we want so that nobody will doubt what we want and we will continue to carry ourselves in that light at this meeting. Thank you very much.

THE CHAIRMAN: Thank you very much, Mr. Nungak. Premier Devine I recognize first. Mary Simon is next.

HON. GRANT DEVINE: Thank you, Mr. Prime Minister. It just seems to me that this is an excellent illustration of why we just can't jump in and modify the Constitution. The federal government says that the provinces are in charge of a particular aboriginal group and the provincial government says the federal government is in charge of it. I think we should really find out who is in charge and whether it takes some time or whether it takes the process. I don't use this as an excuse and I am sure Mr. Sinclair knows this, but to slow up economic development in Saskatchewan with respect to Metis. we spend an awful lot of money and we even spend it, Mr. Prime Minister, as you know, on reserves which is clearly your responsibility because they are within the province of Saskatchewan. I am talking about health care and I am talking about northern municipal government and so forth. So if we are throwing out

positions I thought I might as well throw ours out so the rest of the country knows what it is. It is Saskatchewan's position that Metis as an aboriginal people are within the jurisdiction of Section 91(24) of the Constitution Act of 1867. I don't think there is anything particularly new in this, Mr. Prime Minister. It is our understanding that aboriginal issues are matters of national concern, not just local or regional concern and as such it is our position that all aboriginal people, all of them as aboriginal peoples have always been included within the jurisdiction of Section 91. Section 35(2) of the Constitution Act, 1982 has not, therefore, affected in any way the content of Section 91(24) by merely stating who the aboriginal peoples of Canada are, but I reiterate I believe it is probably time that we cleared up this confusion whether the federal government is in charge or the provincial government is in charge, but clearly I would ask the government of Canada to accept the statement that the term "Indians" used in Section 91(24) of the Constitution Act of 1867 includes all the present and future aboriginal peoples of Canada. So I lay that out just to make sure that everybody is clear on our position with respect to who we think is responsible for aboriginal people.

THE CHAIRMAN: Mary Simon.

MS. MARY SIMON (President, Makivik Corporation, Inuit Committee on National Issues):  
Thank you, Mr. Chairman. I would like to ask first of all whether the equality issue has come and gone?



THE CHAIRMAN: It will come up again, I know.

MS. MARY SIMON: Because the aboriginal representatives were not given an opportunity to speak on this issue and we feel that it is an issue that is of fundamental importance to us and should be addressed further at this First Ministers' Conference. So can I proceed?

THE CHAIRMAN: Of course you can.

MS. MARY SIMON: Thank you, Mr. Chairman. The amendment to Section 25 of the Constitution Act, 1982 is certainly worth closer examination and I would like to state ICNI's amendment at this time or proposed amendment to Section 35(4) which would read as follows: "Notwithstanding any other provision in this Act, the aboriginal, treaty and other rights and freedoms of the aboriginal peoples of Canada are guaranteed equally to male and female persons." However we wish to strengthen the equality provision and therefore will remain open to any amendment which may be proposed. When I first heard that it might be deferred to a Ministers' meeting maybe later on this evening I felt that perhaps at that meeting we could come to some agreement on a rewording of this section because in listening to the opening statements of the federal government and the provinces it would appear that many of the representatives around this table are open to strengthening the constitutional guarantee of equality between male and female persons. So I would just like to state again even though I said



this at the Yellowknife meeting that although the present amendment in the 1983 Constitutional Accord is not what ICNI believed was agreed to at the last First Ministers' Conference, we took the position that we would continue to support the 1983 Constitutional Accord and work toward strengthening the equality clause through the ongoing process. I think that by now we all know that in the equality provision included in the schedule to the Accord aboriginal and treaty rights are guaranteed equally to male and female aboriginal persons. However, we still require similar constitutional protections and guarantees for other rights for aboriginal peoples such as those created by legislation.

With regard to legislated rights under the aboriginal and treaty rights it is far from clear that Section 28 in the Canadian Charter of Rights and Freedoms which is in Part I provides the full equality we seek between male and female persons. We are far from certain that Section 28 prevails over Section 25. While ICNI supports the entrenchment of broad powers of self-government in Canada's Constitution we would like to discuss how we believe the principle of equality relates to self-government. Self-government is both an aboriginal right and a collective right. If we are to ensure democratic and equitable institutions of self-government we must strike a careful balance between individual rights and collective rights and that is the fundamental rights of individuals must be respected by the collectivity or governing body. In this regard the right to equality between male and female persons is a fundamental

human right of individuals. It is a basic principle of international law recognized by Canada and other nations. As a result of this we advocate strengthening equality rights in Canada's Constitution.

In conclusion ICNI maintains the position that we want amendments made to Section 35(4) and if other aboriginal or government representatives have problems with our particular wording ICNI is open and has been open in previous discussions to collectively discussing other wording in order to find a suitable solution. This has not been possible through the ongoing process leading up to this First Ministers' Conference and we felt that at this point there has to be some clarification as to what the different governments are prepared to commit themselves to. We live in a state of uncertainty and when we talk about such a fundamental right as equality between male and female persons then I think that it is our collective responsibility to ensure that it is clear what that right means to us.

So in conclusion, Mr. Chairman, we feel -- we would like this particular item addressed at this conference. ICNI's position was that it could be an item put to number four on the agenda simply because last year we got caught in a lengthy discussion on equality and that we could deal with it if we could agree that there could be enough time put on the end, during the discussion of this particular issue.

Thank you, Mr. Chairman.

MR. CLEM CHARTIER: Mr. Chairman, I am at a bit of a disadvantage but I will accept that. The agenda keeps going back from the equality on sexes and then on peoples, but I find that equality nonetheless is very important to both aspects and in fact we fully support and endorse the statement by Ms. Simon.

I just want to mention that we fully endorse the concept or the right of equality found in the Charter of Rights, Part I, for all peoples whether we call them disadvantaged or not with respect to sex, physical disability, mental disability, and as far as the aboriginal people are concerned when we talk about equality we also talk about equality not only of the sexes but we talk about it in terms of the aged and the handicapped and so forth, so we would want to see this issue of equality rights one that remains alive for the duration of this process so that we could address it in a larger way.

I just want to mention that when we were talking about 91(24) and the federal responsibility

for the aboriginal peoples we are not saying that we are seeking an amendment. As far as we are concerned, Section 91(24) as it currently stands does include all of the aboriginal peoples and it is merely the fact, Mr. Chairman, that it seems the federal government has chosen to abdicate its responsibility for the Metis people. What we are seeking is that your government changes its policy and accepts again that responsibility so it really wouldn't mean an entrenchment or an amendment as such, unless one of course accepts the notion put forward by the Native Council of Canada that the term "Indian" be substituted for "aboriginal people" and the "lands for aboriginal people" which would once and for all be a solution to the interpretation.

Your statement that the provincial governments are mainly responsible for the Metis and that we don't fall under 91(24) gave us a considerable amount of distress this morning. Your terminology with disadvantaged peoples gave us some apprehension as well, but of course you have corrected that.

With respect to 91(24), it was mentioned by the Premier of Saskatchewan that there was a case in 1939, the late 1930's with respect to the Inuit, the Re: Eskimo case and I thought at that time there was the same jurisdictional battle between the province of Quebec and the federal government over who had responsibility for the Inuit people.

The Supreme Court of Canada rendered a decision stating that the Eskimo people were in fact covered by that term in a wide sense which people say in a generic sense. They also stated in that case that the term "Indian" was meant to include all of the aboriginals within confederation and those aboriginees



to enter into confederation. I would say that aboriginees and aboriginal people, I would imagine, are the same people so that is the legal advice we have been given and that is the advice that has been put forward or taken by the native people or the Metis people over the past ten, 15, 20 years. The Metis have been consistent in putting that view forward.

I think it is important that this conference come out with a political solution to this, and we would not hope to go to the Supreme Court of Canada for another decision when we have a forum and the willingness by participants to resolve it. It is primarily important for us, for the Metis people to have resolution to this issue at this conference and why it is important to us is that it is key to the future of entrenchment of self-government and the discussion of how the form and substance of that Metis government would take, including of course the possibility of a third order of government. Nevertheless, whatever form and substance it takes, the issue at hand has to be resolved and of course, the key to that as well as discussing in fact what you did bring up land and resources necessary for the exercise of that self-government, so it is very important to us that we resolve this issue.

We are, I should add, encouraged by the views expressed by some of the First Ministers that all aboriginal peoples should be treated equally and further with the view that the Metis are

under Section 91(24) of the Canada Act of 1867.

I just want to mention as well while we are talking about equality within the Metis people we have quite a number of female persons and I think we should be talking with respect to the equality rights of the Metis women as well and Section 91(24) has a direct bearing on it. One of the things that is very important in that aspect is that the federal government is the only government that can pass uniform legislation for this country. The Metis, we feel, are a people, a cohesive people and we wouldn't want to be overly fragmented by legislation. We could accept some legislation from provinces in some areas but we would like to see legislation that unifies us as a people and has, at least, some aspects that cover all of us. One example could be in the area of child welfare. There should be some enabling legislation that states that Metis people and in particular Metis women have the right to determine the future of their children. I think that is something we would have to seriously consider and we would appreciate coming to some resolution on this issue. If we have to hammer it out tonight with ministers I think we are prepared to do that. Thank you.

THE CHAIRMAN: Thank you, Mr. Chartier. Before I call on Mr. Erasmus, the Federal Minister Mr. Munro has asked for the floor.

HON. JOHN CARR MUNRO (Minister of Indian Affairs and Northern Development, Canada): Mr. Chairman, at the risk of being I hope not too

provocative, I found the discussion to the Metis being brought under Section 91(24) very interesting. I have always been of the view that, in terms of the legal opinion afforded me was that as it stands now, Metis are a provincial responsibility and not included under Section 91(24). If there is some indication that the provinces, for the first time in all the conferences I have attended, are ready to extend federal jurisdiction, it is perhaps in a sense novel and unique and perhaps in some respects a little refreshing but I do want to indicate that if some of the Premiers have been suggesting that this be referred to a committee to review the possibility of the Metis moving in under Section 91(24), under that sort of special responsibility that we have towards status Indians, I would think that it is going to be a fairly protracted discussion because we are involved now after decades of discussions with provinces. In 1931 we transferred lands to provincial Crown lands and we are still trying to negotiate with some provinces with respect to unfulfilled treaty land entitlements for treaty Indians under treaty.

I suppose if we are going to start now to go down the road of inclusion of all of the Metis people that are under federal jurisdiction, the first thing we will have to do is look to the provinces to see how generous they are in terms of lands and resources for the Metis people and if it takes even one-tenth as long as it is still taking to resolve the Indian question we may be at this an awful long time.

In the meantime, we at the federal level



seem to be lectured quite justifiably so by the people of Canada for the deplorable poverty conditions existing on reserves south of 60, which are a federal responsibility and yet some say that the Metis are considered second-class citizens to status Indians. Well, that may be flattering in terms of the degree with which we at the federal level have paid attention to the status Indians, but it doesn't say much to the services rendered to the Metis and the provinces, any of whom have been prepared to acknowledge that until it is finally determined, perhaps it is for now, provincial jurisdiction.

So, I hope during this protracted period of discussion the disparity between status Indians and Metis with the status Indians already in a / culture or / poverty doesn't widen, that would make the living conditions for the Metis even more intolerable while we kick this around for several more years.

All I say is that this type of discussion is not going to be much comfort to the desirability of many to start to get equality of services to the Metis and to the status Indians.

I guess what I would hope, Mr. Chairman, that if it is going to be referred, that would be my hope, if it is going to be referred to a committee to review it could go along with some type of commitment on the provinces in the interval to try to approach some standard of equality of services to that to which we are endeavouring at last now to render to the status Indians. That would



be some comfort while we are looking at the situation and it wouldn't have to await that very, very difficult question of affording the Metis a land base. We could get at that particular objective of equality of services now without further delay.

THE CHAIRMAN: Mr. Erasmus.

MR. GEORGES ERASMUS (Assembly of First Nations): Thank you. Mr. Chairman, some of the First Nations' concerns is that the afternoon is quickly coming to a close and it was our hope that we would have a working group this evening, to work out possible areas of agreement for an accord which might include amendments and it might also include other kinds of political commitments.

You did a quick check on the equality issue and you had at least six of the provinces prepared to move on it. It seems to me that we are close enough on that that it is an item that could be further discussed this evening. This other discussion on equality between aboriginal groups, I am not certain we are of the same kind of area. I know it was something that was touched upon in the discussions this winter, but not a lot of progress was made in that area. It could also be a subject for discussion for this evening. We would like to move on to the question of self-government and have a brief discussion on that before we break and hopefully have some direction for the work this evening. I wonder if it would be possible for us now to spend a little bit of time on the agenda item of self-government?

THE CHAIRMAN: Mr. Erasmus, I will come to that after I have heard from two more participants who have asked for the floor, Mr. Gould and Mr. Sinclair.

MR. GARY GOULD (President, New Brunswick Association of Metis & Non-Status Indians, Native Council of Canada: Thank you, Mr. Chairman. I think the whole question of equality in regard to aboriginal peoples or aboriginal groups of peoples is at the very foundation of the whole problem and I think that albeit I suppose it is politically wise for the provincial and federal governments to say "We will take it into consideration and under advisement and we will study it" it is neither just nor fair, nor is it in respect of much of the work that has already taken place and must of the case law that already exists in this country. I will refer to our Inuit brothers and I think Mr. Chartier already referred to it. In 1939 the same issue raised its ugly head: who was responsible for the Inuit or the Eskimo people as they were called in 1939? The federal government and the province of Québec went to court over that very issue and it was a very profound advisory position from the Supreme Court on it. I will read it to you and I hope that it sheds some positive light on the discussion that is taking place today. The question was whether these Eskimos whose ancestors were aborigines of Ruperts Land in 1867 and at the time of its annexation to Canada were Indians. The decision was very clear, that the Eskimo fall under the general designation of Indians and that indeed in these documents, talking about the British North America Act, "Indians", is used as synonymous with aborigines.

Our argument is that now the Constitution recognizes aboriginal peoples, the aborigines of this country, the Inuit and Metis people. There is no question about federal responsibility. Mr. Munro raises what we consider to be a very serious concern about how governments are going to deal with our status and treaty brothers across the table and we are concerned about that, but don't deny us our aboriginal standing, our constitutional standing as Indian people, as descendants of those people, as a way to avoid dealing with the federal responsibility. You raised the question about land. That is a concern that we have. We have that concern in New Brunswick. I believe that by the federal government taking on its responsibility and by the Premier of my province sitting down with the aboriginal people in our province we will resolve the question of land. We will find a land base for the Metis and the non-status Indian people.

In regard to equality and its general effects in regard to our women we are very concerned about that, but there is one thing that governments and in particular the federal government have been good at and that is providing equality in regard to denying our people, the non-status and Metis people, their standing as 91(24) people. I will refer to the Indian Act. The two specific categories of aboriginal people that are denied their 91(24) standing are 12(1)(a) people, a person who has received or been allotted halfbreed land or money scrip. The Prairie Metis people and Section 12(1)(b) people,



Indian women who lost their status by marriage and their descendants. So you have treated us equally in that regard, non-status and Metis people, you have denied us equally our status as aborigines or aboriginal people. I don't think that legally, morally or politically that can continue on. I think it has got to be resolved here and the council would like to see the question of the non-status Indians and where they fit in this scenario and the Metis people that we represent, where do we fit into 91(24)? We believe we fit there very clearly, very precisely as descendants of the Indian nations of this land and our aboriginal or treaty rights can no longer be bounced around as a ping-pong ball between the federal and provincial areas of jurisdiction. We are involved in a constitutional process in which the provinces I hope are committed to resolve the question of a land base for the Metis and for those non-status Indian people who will not repatriate to the bands. Some will, but some won't. I think it is a red herring, the jurisdictional question. I think the provinces need to be very clear and concise on this and the federal government must take its responsibility. I think we can't go any further until we talk about equality in that broad sense of the word.

THE CHAIRMAN: What do you say the federal responsibility is? I mean you seem to say the land base would be a provincial responsibility and Premier Hatfield would solve it in your case.

MR. GARY GOULD: I didn't say Mr. Hatfield would solve it on his own. I think if Mr. Hatfield would put the machinery in place that I have suggested in the province of New Brunswick we could go a long way to resolving the issue. The problem is that we are a federal responsibility, all the aboriginal people. I think Mr. Hatfield has been thoroughly convinced of that in the arguments we have presented to him, that non-status Indians and Metis people in this country are all federal responsibilities. I think he will do whatever he can in his areas of jurisdiction to enable the federal government to fulfill its total constitutional responsibility to Metis and non-status people. If it is a land question we can resolve that. There is no doubt in my mind.

THE CHAIRMAN: How would you resolve the land question? A lot of status Indians would like to know that, as Mr. Munro pointed out.

MR. HARRY DANIELS: A recent or contemporary situation happened with the Inuit. The federal responsibility -- the Inuit were a federal responsibility and the land transfer was made in the province of Québec where the deal was. Mechanisms could be put in place. This is a bogeyman we are drawing out of this closet here. We could set up mechanisms we could agree on. Because there was a land transfer in 1930 we could sit down with the provinces and the feds and say "What can we agree to come up with?" It is not going to be easy. I am not suggesting that at all.

THE CHAIRMAN: It is not easy and we don't object to that, but we just want to make sure and Mr. Munro made the point again that in the meantime, because it is not going to be easy and it is going to take time, that you don't fall between two stools.

MR. HARRY DANIELS: I have done that a couple of times downtown here. (Laughter)

A SPEAKER: You are doing it again today.

THE CHAIRMAN: You should have given yourself a prescription for sitting on air.

MR. HARRY DANIELS: No. The point is ...

THE CHAIRMAN: There is a lot of misery on the reserves and you are really saying you want to go back to the reserve to be a little less miserable?

MR. HARRY DANIELS: No. Mr. Chairman, what we are saying is that we want a new deal that we will settle together, the parameters of that we will settle together and we don't have to take the examples or use the bad examples and say let's learn by them. Let's institute new measures that are going to be positive and are going to make the Metis and Indian people take advantage of the situation. We can do it with positive and rational planning.

THE CHAIRMAN: Mr. Gould talked about the Supreme Court decision. There is a simple way to settle this. It would be to have a Supreme Court reference. I am not arguing that that is the course we would prefer, but I am arguing that you probably

wouldn't live with a decision that you disagreed with and therefore we would still be in the political discussion that we are in now. That is why I made a point of bringing this question forward. I am amazed that the Premiers in such great numbers sit here silent when it is a question of just transferring under federal jurisdiction as I say hundreds of thousands of Canadian citizens and the consequences that go with that. I don't want this discussion to end up as though it has always been clear that the federal government had jurisdiction on the Metis people. This is a new doctrine that we are hearing since 1982. Certainly the Red River Metis never argued that they were aboriginal peoples until as far as I know 1982.

MR. HARRY DANIELS: No, both of my families come from Red River and they have always been halfbreeds and Indians.

THE CHAIRMAN: Then why aren't you sitting on that side of the table?

MR. HARRY DANIELS: Because I don't agree with that. If one of those guys would get off their seat I would be there.

THE CHAIRMAN: Mr. Sinclair.

MR. JIM SINCLAIR: First of all I enjoy the arguments. I like this kind of discussion. This begins to have the tones of a political meeting rather than technicians reading out reports. I think one of the things that is of importance is I like the



statement you made that maybe the federal government should have jurisdiction over the Metis. I think the political leader from Saskatchewan made it very clear and I support him a hundred per cent and we had some discussions on that before we came to Ottawa. I like Peter Lougheed when he is willing to make some changes and I think that is important to us. I think the thing that is important is the fact that we are not here to say that we are going to be poorer off with the federal government than we are with the provinces. That is not the case. We feel all aboriginal people should be under federal jurisdiction because that is who the aboriginal people want to deal with. We feel that by being pushed between the federal government and the provinces it has caused us a lot of problems in the past because no one has said they have responsibility for Metis. No one has ever really said "We do" because we have been pushed around back and forth to the federal government and to the provinces. Mr. Trudeau, you should know very well the days of Mr. Thatcher, Premier Thatcher from Saskatchewan, when he was alive he would come along and he made very certain you people had some responsibility until he found out we were stepping on his toes and then all of a sudden he said "You have no responsibility." I want to get that clearly spelled out and I am glad to hear someone talking about it but I think the key thing is because the aboriginal people would be under one group, the aboriginal people then would have a national constitution

that could apply directly to them and I think that is important for us.

The other thing that disappoints me and you disappoint me, John, by knowing you for 15 years and now when there is an additional group of aboriginal people you seem like you are not prepared to, maybe, deal with those people. I think that is a little unfair. I wish you would reconsider that statement and, you know, be prepared to accept the responsibility that comes with aboriginal people. I would suggest again because I don't want to take time away from the First Nations in terms of self-government because I am interested in self-government too, but somehow or other while we have got the provinces on track we can't walk out of a meeting today or tomorrow with people, one group of people saying "Yes, we are responsible" and another group saying "No, we are not responsible." I think we have enough of a consensus to go one way or the other and I would like to see a decision made today or tomorrow. I am prepared to meet tonight if it takes time. Thanks.

THE CHAIRMAN: Mr. Munro has asked for equal time.

HON. JOHN CARR MUNRO: I want to respond to Mr. Sinclair. I wasn't necessarily objecting if it was the will of the federal government or the provinces to have all the Metis people fall under federal jurisdiction, but I was projecting what you were going to say. When you say you want

to be under federal jurisdiction I take it you want a land base. Who do you look to for the land base? I would assume you are going to look to probably the federal government if you are brought under federal jurisdiction. The federal government would then have to look to the provinces to afford us the land. What if the provinces aren't prepared to afford us the land? How then can you ever have equal status with Indians on reserves if you don't have the land? Then what you ask is to somehow start to bail hundreds of millions of dollars from the provinces if they are prepared to sell unoccupied provincial crown lands or compensate third parties to turn it over? You see the incredible number of years you would be at it trying to get a land base from the provinces?

In the province of Saskatchewan alone now we are involved in unfulfilled treaty land entitlement for the status Indian people and so far I am glad you indicated you were happy to hear Premier Devine agrees with you, but I haven't been able to get that government to agree to carry on and complete the unfulfilled treaty land entitlements in accordance with a formula decided by the previous government back four or five years ago.

Now, we are still working at that on the status Indian side. We haven't been able to get one comprehensive land claim settled in the province of British Columbia in reference to the Niska, let alone about 10 others we validated. We haven't even been able to start up active negotiations with them with regard to status Indians, so surely to goodness if the Metis people want to get equality of services at last don't fall between two stools and don't muddy the water by saying you want federal responsibility without putting the provinces squarely on the spot or somebody on the spot as to how you are going to get your land base, or you will be second-class citizens relative to services for status Indians for decades if you don't face into that reality.

MR. JIM SINCLAIR: John, you are not going to discourage me, I've been through a lot of problems all my life and I understand being kicked from one place back to another and I think we want to spell out very clearly here and the aboriginal people are saying around this table we want to know a clear responsibility of who is responsible for the Metis



and we would like to determine that and by determining that then we know who to deal with and if there is to be a land transfer you are talking about a question that is down the road obviously and people have talked about that this morning around the table. You don't get the answers tomorrow. You would at least define that responsibility. We could see some light at the end of the tunnel and understand who we are dealing with and I think I still have to agree with those people who are prepared to accept Metis under 91(24).

THE CHAIRMAN: Well, I have to return to the commitment I made to Mr. Erasmus -- Premier Lougheed?

Mind you under item three I suspect that we will be returning to this, because that is where I believe it was discussed at the officials' level, but I have Premier Lougheed I take it on this subject. Premier Lougheed, and then we will maybe hear from ---

HON. PETER LOUGHEED: Mr. Prime Minister, I know you are anxious to move on so I will be brief I believe I was unequivocal a year ago in saying that I always presumed that we in the province of Alberta had the primary responsibility for the Metis people and we have been doing our best to do that. . Now, I am being informed that that wasn't our responsibility and that we shouldn't perhaps be looking at it that way. I then hear these arguments being presented and I wonder if perhaps our Metis Betterment Act might be unconstitutional, so it has taken a very interesting twist and turn today I guess -- I don't want to be

abrupt about it but it certainly has taken on an unusual turn.

THE CHAIRMAN: I think you have made a good point, Premier Lougheed.

HON. RICHARD HATFIELD: What we are here to do is create and if we are going to be bound up in all the past initiatives, mistakes, whatever, I don't think we are going to make any progress at all.

The original question was, should we try and set ourselves to the objective of determining whether or not the Metis should be a federal responsibility or as you proposed, a complementary federal-provincial. I think we have got to move on this.

THE CHAIRMAN: As Chairman, I will accept your suggestion, Premier Hatfield, and I hope everybody welcomes the fact that we have had this discussion and that the disagreements have been rather obvious, enough to say that we don't have agreement on this, that it is now a subject of discussion and hopefully of decision and in whatever decisions we take in adjourning tomorrow night we should make provision for progress to be made on this particular subject now that we have had a fair exchange of views. As I say, it might come back under item 3 again, but I suggest that we stop at this point, reflect on it overnight and particularly on the mechanisms that we would want to set in place to find an answer to this question. As I said, I don't think it is a simple reference to the Supreme Court. It might be a political decision, but Mr. Munro has made the point

again and again that in the meantime let us not use this uncertainty as a further excuse not to try and improve the social and economic conditions of the Metis people.

Mr. Erasmus, you wanted to start on the subject of self-government. I take it that means you want to go to item 4 or perhaps following Chief Ahenakew you are saying that self-government is an umbrella subject under which you will deal with several subjects. Therefore, I will recognize you and perhaps seek an adjournment shortly after you have spoken, maybe with one or two short additions if they are required. Mr. Erasmus.

MR. GEORGES ERASMUS: Thank you, Mr. Chairman. It was in response to your opening statement, your accord. What we have done is we have discussed a number of parts of the accord. We have had a discussion on the equality part. There is the possible amendment to Part II dealing with the possible recognition of First Nations ability to -- aboriginal peoples' ability to be recognized in the Constitution with an explicit amendment recognizing self-government and that is the area we wanted a discussion on prior to breaking.

Thank you.

A few points we wanted to make and perhaps my colleague on the left here will also add to our thoughts. We are heartened by the whole tone of the government which is prepared obviously to make an amendment to the Constitution. We have some problems with certain sections of it.



We have some problems with the notion right at the beginning that if First Nations or aboriginal people are to be given self-government it will not in any way affect the jurisdiction of the two orders of government in the constitution now. Obviously our preference is the creation of a third order with a clear jurisdiction of its own.

Under (b) you talk of self-governing institutions that will meet the needs of their communities. Now we could get into discussion of what we mean by communities. In some cases the concept of communities can be interchangeable with nations. We are hoping -- we are talking about larger collectives than municipalities.

In the negotiation process you work out that the parties will always be the government of Canada, the provinces and I guess obviously native people. Do you foresee any situation at all where it is possible for bilateral negotiations and one can negotiate with either one of the parties alone?

THE CHAIRMAN: Yes, insofar as finding a particular form of self-government, but we will come to that when we state our views, but we think there probably should be some general framework legislation which would give some general criteria for self-government and under that we would, if it is desired, negotiate with different groups in different ways.

As I said this morning it seems to me unrealistic to think that one particular pattern of self-government will apply to all the Indian bands from one



coast to the other. They live in very different circumstances as you know, if only demographic circumstances. Very small bands obviously won't have the same kind of apparatus for self-government as very large ones.

MR. GEORGES ERASMUS: One further question, in relation to the North where there are no provinces, do you see a need for the provinces to be involved there?

THE CHAIRMAN: No, I believe when we were talking Nunavut we made that clear. In the eastern Arctic there was no involvement of the provinces. We were anxious to reach an agreement with the people of the eastern Arctic when it is divided as the people will want it to be and we know that 95 per cent of the inhabitants will be of Inuit ethnic origin, but they made it clear and certainly we are glad that they did that it would not be an ethnic government. It would be a government by majority of the people.

MR. GEORGES ERASMUS: We would like to make it clear that a majority of the members of the First Nations Assembly would wish primarily a bilateral process with the federal government. In some cases some of our people are open to involving the provinces across the country, so we would like the possibility obviously for negotiations to be only bilateral or in the case of the First Nations so wishing the provinces to be involved. We want that flexibility.

THE CHAIRMAN: But we would certainly agree to that. As I said this morning, I

think there may be in the majority of cases the provinces themselves if they agree to the notion of self-government will want to have some form of delegation of their areas of jurisdiction to these self-governing communities. I can't speak for them, but it is something we envisage as not only possible but probably desirable in many cases.

MR. GEORGES ERASMUS: Just one last point in relation to process. The process you see here is legislation which would, I guess, conclude the negotiation process. Our approach would be, as I said, a third order of government and then the treaty process of government to government negotiations. The negotiations result in a treaty. Perhaps my colleague would like to add additional comments.

THE CHAIRMAN: I think you are making it more difficult for yourself when you talk of the third order of government. It may come to that some day, I don't know but when you say that you are carving out a parcel of not only land, which you have in part, but of jurisdictions which is not ours to give or to delegate and I think you made it clear this morning that you weren't even thinking of delegation. You were thinking of assuming as a sovereign government under the Constitution and, you know, that may come too; it may not. I am just saying I wouldn't set my sights on that as my first steps.

If I can say something maybe at the risk of offending people, but I don't think when you talk of self-government you want to be like the Republic of Andorra or San Marino where you have the right to issue stamps and call yourselves a sovereign nation. Maybe you will do like Monaco and get yourselves a casino, but that isn't always a sure prescription for full sovereignty either. So, you know, what I am saying, and what I said this morning is that I see a process of experimentation where by delegation you would self-govern yourselves. I would hope that the end result wouldn't be a third level of government of the kind I just described, Liechtenstein or Andorra. Not that there is anything dishonourable with their position, but it seems to me it is not as satisfactory as being Canadian at the same time as you are Indian. If you give up Canadian sovereignty in order to establish another form of sovereignty, then you don't have much say in the conduct of Canada. I would hope with evolution over the years self-government as I believe is the case of Nunavut would be not that of a third level of government, but I suppose as they hope eventually a second level of government, provincial government. I would imagine that is one of the things they have their sights on.

MR. GEORGES ERASMUS: Mr. Chairman, obviously the desires of the Assembly of First Nations would not be to worsen the situation that we have now. It would be to improve our situation. We find ourselves in exactly the same situation as our forefathers.

We have always sought to have our continuing right of self-government to be recognized. We are not assuming anyone else's authority in the area of self-government and I believe that we are looking at the range of self-government that you yourself outlined at the First Ministers' meeting last year, somewhere between total sovereignty and assimilation. We have an amendment which we have circulated which we want to draw people's attention to. We think that there is enough commonality between what we are proposing and what you propose for further discussion, but it means things like when you recognize self-government you have to be prepared to allow the First Nations and other aboriginal groups to have their own jurisdiction. The amendment that you have put forward, if we agreed to it and it was implemented, would create a situation where we would have in the Canadian Constitution the possibility of First Nations governments but unless there had been negotiations, there had been agreements in actual fact we would have nothing more than a paper recognition.

THE CHAIRMAN: If you want negotiations then there must be agreements. That is why in the proposal we put forward this morning we say that will be part of the process. We wouldn't expect to define, even if we agreed to insert self-government as a notion, we wouldn't expect to define in the next 48 hours the powers and the complete significance of it. What we are doing is, as we did last year, constitutionalizing a process and recognizing a principle.



MR. HAROLD CARDINAL (Assembly of First Nations): Mr. Chairman, in line with the suggestions that have been made by yourself today and taking into consideration the previous discussions over the course of the last year it would be useful to proceed to discuss the possibility of putting together the recommendations that you have made and the recommendations on the table by the Assembly of First Nations. I think it is important for us to recognize as you have in your opening statement that there are a number of levels, there are a number of processes that we have to go through. We have I think insisted on and wanted all year a recognition and we appreciate the position that you took this morning that the issue is no longer whether aboriginal people should have self-government. The question is now how that concept can be brought into reality in terms of modern-day Canada. I think that is the kind of leadership that the provincial governments asked of the federal government during the course of the year to provide and we appreciate the initiative you have taken in that area. It is absolutely essential that there be some reference to that and some recognition of that in the Constitution so that we do not begin discussions in the next year going back to a process and trying to determine whether there ought to be self-government for aboriginal people or whether there ought not to be self-government for aboriginal people. So in that sense the entrenchment that you suggest we feel is essential if this process is to continue. The provincial Premiers this morning in their statements

referred I think as you did in yours to the need to talk about programs, the need to talk about legislative action that might be taken each within the spheres of both levels of government. That is a necessary part of the process, but there are procedures for that to occur. There are normal federal-provincial conferences that can take place not related specifically to constitutional entrenchment where those kinds of discussions can take place. So we are a bit leery of the provincial position saying "Well, don't come to this conference expecting constitutional amendment. We would rather talk about programmatic or legislative initiatives we can take." We are prepared to talk about that but in another forum. We have only three opportunities, two more after this one, to talk about specific constitutional amendments and we want to proceed as quickly as we can taking the kind of caution that everyone around the table wants to occur. There are other processes that are taking place as well where hopefully we will all have the opportunity, for example, in your discussion of the legislative initiative that your government will be taking, we assume that we will have an opportunity to get into a much fuller and more complete discussion on that particular topic when we come to that. So if it is possible to proceed with some meetings today to see how we can work around some of the suggestions that you have made I think we can capture all of the various kinds of concerns that have been voiced around this table.

THE CHAIRMAN: I think as Chairman I should find some way of winding this up for now.

HON. RICHARD HATFIELD: Before we wind up I want to raise the question of equality of men and women tomorrow because I can't discuss self-government or these other issues with any conviction at all unless we start on the basis of recognizable equality between men and women.

SOME SPEAKERS: Hear, hear!

HON. RICHARD HATFIELD: I don't expect to do it tonight but I want to do it tomorrow.

THE CHAIRMAN: Well, what I would suggest then is there are two subjects on the table. Mr. Hatfield just brought one back. I would suggest that we all use the time between now and tomorrow morning's meeting to look at each other's proposals. I have heard from the AFN representatives, lately Mr. Cardinal suggesting he would like to see some progress on the basis of the federal proposal this morning. What we will do is look at your various proposals and those that are compatible with ours and can be fitted in or can modify ours we will do that and I take it that the rest of the delegations will do the same thing so that tomorrow we can deal with all those proposals which are compatible together and all those other proposals and then we will try to make a decision as to whether we want an amendment or not and what kind of an amendment we want if indeed that is our decision to have. So before adjourning I think I will ask the Minister



of Justice to state in simple terms the essence of the proposal that the AFN delegates have referred to, the federal proposal, if you could do it in short and simple terms. Then each delegation could listen and see whether their position is compatible or incompatible. If compatible, what modifications you would like to bring tomorrow to them and, if incompatible, what concrete proposals you would like to make. Briefly, Mr. Sinclair.

MR. JIM SINCLAIR: I think again when we discuss self-government one of the reasons why we want to talk about the Metis under Section 91(24) when we discuss self-government, our worry in looking over the proposal is we want to know who is going to be responsible for making sure that self-government happens. We think we want the federal government to take the initial responsibility.

THE CHAIRMAN: I think in the case of self-government, as in the case of equality between men and women, we have canvassed views. I don't think I will be able to call a consensus tomorrow, but we do know -- I don't mean self-government as much as I mean the place of the Metis in this process. I think we have canvassed the subject enough to know we are going to have to continue working after tomorrow for weeks and months. It doesn't mean I won't hear on the subject again but I think I can predict without any fear of being mistaken that we will not on those subjects be able to close them tomorrow night. That is why I think Mr. Cardinal's suggestion of moving at least another step on self-government, per se, which



we haven't discussed yet except in the last ten minutes is a valid one. We will hear from Mr. MacGuigan and unless there are any questions I will adjourn until tomorrow morning.

HON. MARK MacGUIGAN (Minister of Justice and Attorney General of Canada): Thank you, Mr. Prime Minister. I notice with interest the fact that several governments in the course of the meetings today have quoted words that I used in the course of our earlier discussions and I have no quarrel with the quotations. They were accurate and they indicated certain attitudes with respect to constitutional amendment as to when we should do it. I believe that the constitutional amendment we are suggesting here meets all of those tests.

The proposals that I was finding fault with in the earlier sessions had to do with very large-scale changes which could have been judicially interpreted and the results would have been unknown and, therefore, we really would have been evading our responsibility by passing it over to the courts, but what we are proposing with our constitutional amendment here is something which I believe ingeniously gets around the problems that we had with earlier suggestions for constitutional amendment. What we would do here as the Prime Minister has said is to constitutionalize the principle. We would entrench because we would put something in the Constitution that could only be amended only by the minimum number of the federal government and the seven provinces, but what we would put in the Constitution would not be judiciable, it would not be enforceable in a court against the governments and it would be the same kind of commitment that actually we made last year with respect to some of what we agreed to at that time and perhaps an even better parallel is Part III of the Act of 1982, the equalization and regional disparity section of our Constitution in which we made a political commitment, all of us governments, to promote equal opportunities and a commitment respecting public services.

In fact, Prime Minister, the introductory words of our present amendment are drawn exactly from the introduction to Section 36(1) and the kind of recital is in exactly the same kind of form as in Section 36(1), so we are suggesting that

we follow here the kind of precedents that the governments have already established with respect to equal opportunities and public services, that we make a commitment to a principle, one which cannot be enforced in the courts but one which is nevertheless of significance and particularly of significance to the native peoples.

I suppose there may be those who would argue what use is it if it can't be enforced in the courts,

Well, its use is a symbolic one. Its use is a commitment. It is a solemn political commitment on the part of the people. It is constitutionalizing a principle to use the Prime Minister's words and, therefore, it implies something that will carry on even after the agreement for meetings after 1987 expires. This would be a permanent addition to the Constitution that would bind us to work towards the goals of self-government and protection of linguistic and cultural rights.

So, therefore, I hope it will be appreciated in our overnight reflections that it is not going to be an albatross around the necks of the government, but on the other hand it is a symbol of hope for the native peoples and, therefore, we think we have suggested something which is acceptable to the governments within the parameters that we have heard them set out here today and previously and that it is also as the native peoples have suggested something that is important from their point of view.

THE CHAIRMAN: Thank you, Mr. MacGuigan. Mr. Nungak has the floor and at this point I would prefer very short statements as to either questions to the Minister of Justice or expressions of intentions as to tomorrow's course of events.

MR. ZEBEDEE NUNGAK: Thank you, Mr. Chairman.

I have since -- I have been heartened and uplifted by some of the things that have been said today, not only by the federal government but by other governments. I don't know whether people will agree with me on this, but I sense a momentum. There is sufficient movement on the issue of equality and perhaps on self-government that I think deserves nursing along between now and tomorrow morning.

There are many positive things that many of us could pick up on together.

I think beyond having a simple exchange of documents which we have done today, we have enough homework individually to do from the papers that have been handed out today, but on the other side I think if we could, together in the same room in a working session, distill some of the more agreeable aspects of what has been said today we can make more valuable use of our time tomorrow. I wonder if the Chairman could do a quick canvass on the idea of having a working session of ministers or others tonight to see whether what has been said today could be -- could be maintain the momentum tomorrow.

THE CHAIRMAN: I suggested such



a working meeting earlier on a precise subject, that of equality as between men and women, but the quick canvass you asked for indicated to me that we didn't have at least at first blush the seven provinces which would be needed in order to even envisage a constitutional amendment. I don't want to re-open the discussion. I have no objection if there is a consensus around here for us First Ministers to delegate our Ministers of Justice or Interprovincial Affairs or Constitutional Affairs to do some work tonight, but I don't see any wild enthusiasm.

HON. DENNIS PATTERSON: Mr.

Chairman, I don't see how we can find common ground in separate rooms tonight mulling over various proposals. I think if we are going to seek common ground we have to get in the same room. I feel quite strongly that we didn't do justice to the equality issue. The Northwest Territories as far as sexual equality is concerned, the Northwest Territories is strongly concerned about it. We would be willing to work tonight.

THE CHAIRMAN: Well, there is a suggestion from Mr. Patterson that the full conference meet again tonight. Is that what you are suggesting?

HON. DENNIS PATTERSON: A ministers' working group.

THE CHAIRMAN: A ministers' working group.

First Mr. Daniels and then Mr. Chartier briefly.

MR. HARRY DANIELS: Just very briefly. I am not going to advance any other arguments but on this equality I feel very strongly about that as well and we have a proposed amendment and we would like to speak to that as well. I don't think -- I would agree with Mr. Patterson that we didn't do justice to the issue, but we want to expand that to deal with aboriginal people as well and on the item of 91(24) you canvassed five provinces and they felt in one way or another it should be talked about further. I would like you to at some point in time, tomorrow when we reconvene to reintroduce it and maybe canvass the other five just to get a feeling of where we are going.

Thank you.

THE CHAIRMAN: Mr. Chartier?

MR. CLEM CHARTIER: I was under the assumption until that statement that we were going to go through that exercise tonight and I would have assumed that that exercise would have dealt with the progress to date along with this accord, this proposed accord and I certainly would want to discuss it tonight and support the notion that ministers in fact do meet.

With respect to the federal-provincial jurisdiction issue, it is central to this accord and we would be raising it again tonight.

THE CHAIRMAN: Mr. Penner?

HON. ROLAND PENNER (Attorney General, Manitoba): Just one or two points briefly. Manitoba would support a working group of ministers tonight for two reasons. We do not think that the question of the

productivity of such a meeting should hinge on whether or not we can perceive a consensus for a constitutional amendment. It can still be productive even if it doesn't arrive at that point. Secondly, we think there could be a recipe for, disaster may be a strong word, for a great deal of disappointment unless we at least make the effort tonight to make some progress. We think that might well be done.

THE CHAIRMAN: Well, my concern is that we not send the ministers into the bull-pen without giving them at least some preliminary material. You know, there has been a lot of stuff circulated and I don't see the ministers meeting at eight and sorting it out. If we could consider two stages. If our officials think that they can do some sorting out in order that ministers can usefully meet at eight thirty or nine it might be a good idea, but I don't think they should be just sent up there to meet cold to continue the discussion we have had here.

Mr. Penner

HON. ROLAND PENNER: There are perhaps two things upon which a discussion either preceded by officials or not might proceed. One is the equality rights section. Manitoba is of two minds as to whether or not the issue is addressed but we would like to hear further the concerns expressed and perhaps some progress can be made on that. There are a couple of specific proposals that are already on the table. I don't know if an officials' meeting is really needed beyond the work

that has previously been done and the two proposals are already on the table. With respect to the issue of an accord, there may be a greater consensus on that if the question is explored as to whether or not an accord must be a constitutional accord or there might be, albeit still non-justiciable, a political accord, Manitoba has placed a position on the table with respect to that and I think on those two notions without getting into abstract discussions of self-government, sovereignty and so on, but looking at some concrete possibilities for results.

THE CHAIRMAN: Mr. Davis?

HON. WILLIAM G. DAVIS: I think we are intrigued by your suggestion that the officials might distill some of this this evening. I think you understood from Ontario's presentation that our views on some aspects are similar to those presented by the government of Canada. We are concerned about some obvious areas that the Metis have raised et cetera but perhaps if the officials could distill some of this and give it some focus and the ministers were to meet, I hate to presume upon them, but I will volunteer the three Ontario ministers let us say at eight o'clock tomorrow morning to see if they could give some political judgment and then we would have this available for us at nine. It might provide some focus. As I say, I will volunteer the three Ontario ministers for even a quarter to eight tomorrow morning.

THE CHAIRMAN: There is a suggestion that the officials would meet tonight. I take



it -- with those of the aboriginal representatives who consider themselves officials and then the ministers, also presumably including the aboriginal peoples representatives would be meeting tomorrow at a quarter to eight say until nine o'clock and assuming they wouldn't want then to rush to debrief you and me, Bill, then we should meet here at nine thirty or something like that.

Is that generally agreeable?

HON. RICHARD HATFIELD: I must say again from experience the Ministers need direction or else we will just have a repeat of this.

THE CHAIRMAN: Give yourself some direction.

HON. RICHARD HATFIELD: I have got my direction.

THE CHAIRMAN: What do you think, Mark? Should we have a meeting tonight?

HON. MARK MacGUIGAN: Prime Minister, I am available tonight. I am available in the morning. We have a morning meeting. I am told by officials we can provide breakfast here. Officials could meet tonight if that is agreeable. We are in the hands of the majority here.

LE PRESIDENT: Alors, à 8h00 ce soir il y aura une rencontre des fonctionnaires au Centennial Room là-haut. Aux fonctionnaires, on ne donnera pas le dîner je pense, le ministre donnera le déjeuner demain matin mais à 8h00 ce sera une réunion de travail dans le Centennial Room.

I suppose the aboriginal groups should designate one or two, preferably one person per group to work with the officials and then tomorrow -- that would be four of you -- tomorrow at the ministerial meeting for breakfast also in the Centennial Room at a quarter to 8:00 there would be a meeting of Ministers and representatives of the territories and of the aboriginal groups. Is that agreed generally?

SOME SPEAKERS: Agreed.

THE CHAIRMAN: Mr. Daniels, you are really preventing us from going to have cocktails here. It is my turn to offer cocktails at 5:30, so be brief.

MR. HARRY DANIELS: I have my stool ready, Mr. Prime Minister. I have already ordered a drink. (Laughter) I am not opposed to working this evening or sending one of our people. I am not quite clear on the agenda. I was talking and I apologize for that. Can you tell me the agenda very briefly?

THE CHAIRMAN: Well, my guess is the agenda and I think it was Premier Davis' suggestion and I understand made from the AFN that a good text to start from would be the federal accord proposal put forward this morning.

There would also be a need to look at the question of equality between men and women and the question of whether the Metis are going to sit on one stool or the other.

MR. HARRY DANIELS: One logistical thing. How many from each group, one from each group or two from each group?

THE CHAIRMAN: For the officials meeting tonight it would be preferable if there were one from each group or two from each group. You still won't outnumber us and then two for breakfast. Yes, Mr. Nungak.

MR. ZEBEDEE NUNGAK: We would have preferred to have tonight's session to be a session of the Ministers to give the working session calibre but if the majority view is that it will be an officials meeting we will defer to that in realizing that is better than nothing.

THE CHAIRMAN: I think the point is that several of the delegations have already made engagements for tonight. There had been nothing on the agenda so some of them say they are not available.

La conférence est ajournée à 9h30  
demain matin.

5:37 p.m. / 17h37





FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

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(unrevised and unofficial)

Morning Session of  
March 9, 1984

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance du matin  
du 9 mars 1984



--- Upon commencing at 10:00 a.m.

THE CHAIRMAN (The Right Hon. Pierre Trudeau, Prime Minister of Canada):

Bonjour, mesdames et messieurs, nous avons retardé un peu l'heure du départ parce que les ministres qui s'étaient réunis ce matin avaient à faire rapport à leur principaux, à leur Premier ministre, alors nous allons commencer et je pense qu'il serait bien de commencer par un rapport du ministre de la Justice, un rapport qu'il nous fera collectivement de la réunion de ce matin, après quoi j'ai déjà reçu avis de monsieur Ahenakew et de monsieur Sinclair, de plusieurs autres qui voulaient prendre la parole, monsieur Cardinal également.



So, Mark, if you just briefly report on this morning's discussions so that we at least know that we have got the facts right then we will have an exchange of views.

HON. MARK MacGUIGAN (Minister of Justice and Attorney General of Canada): Mr. Prime Minister, Premiers, I am afraid that my report is a poor substitute for the prayer with which we normally begin, since it is a rather negative rather than a positive invocation, but although we had excellent discussion, Prime Minister, we did find much more disagreement than agreement and at the end of our meeting I put three questions to the governments, to the provinces in particular. The first question was whether there would be agreement to a . . . constitutional amendment of the kind proposed by the federal government with respect -- within our proposed Part II amendment 35(2) with respect to cultural heritage and particularly the right to self-governing institutions. Obviously, the federal government was in favour of that. Three provinces, Ontario, New Brunswick and Manitoba were in favour and the others at that meeting appeared to be opposed to proceeding in that way.

There was a further variation of that proposed by Jim Sinclair, that we have an agreement to such a constitutional change, but that it be suspended for some time and it wasn't voted on separately but my sense was that the reaction of the opposing provinces would be the same. The native groups I think would have gone along with that, although I

didn't poll them separately.

Then because some of the participants had suggested the possibility of a political accord, short of constitutional -- of a constitutional amendment, I polled participants again to see whether that would change their opposition to some form of accord. Of the seven provinces opposed to the constitutional accord, there seemed to be a disposition on the part of five of them, with Prince Edward Island and Newfoundland not taking a position, there seemed to be a disposition on the part of five of them to agree to some form of political accord. We didn't specify what kind. More precisely there were two or three kinds on the table and we didn't have time for indications of opinion on which ones to proceed on.

However, Prime Minister, I think it is fair to say the native groups would not be in favour of proceeding with that kind of accord. At least at that meeting that was the position they took.

The third question that I put to the participants was with respect to an amendment with respect to sexual equality and because the majority wanted to take the vote on amendment to Section 35 rather than our proposal to Section 25 I put the question that way. Ontario, Manitoba, Nova Scotia and Prince Edward Island indicated they would be in favour of such an amendment and the other six provinces indicated that they would be

opposed. I might say that the federal government could accept an amendment to 35 with respect to sexual equality, but not the one that was mostly in play at that time and so I indicated that we would not be in favour of that amendment. I think that is basically our report, Prime Minister. As I say, it tends to be on the negative side at this point with respect to the attitudes of the various participants.

THE CHAIRMAN: Well, I suppose we should spend a bit of time clarifying our positions and trying to convince each other, but not ad nauseum. At some point ---

HON. RICHARD HATFIELD (Premier, New Brunswick): Mr. Chairman, I would like to ask one of the delegates, both of the delegates from New Brunswick to speak on this issue.

THE CHAIRMAN: I will recognize them very soon.

Let me begin with Mr. Cardinal then and then Mr. Sinclair, then the delegate from New Brunswick and then a delegate from the Northwest Territories -- no, the Inuit.

Mr. Cardinal?

MR. HAROLD CARDINAL (Assembly of First Nations): Mr. Chairman, first of all, we want to start off acknowledging and thanking you as the Prime Minister and the colleagues sitting beside you for the initiative and the leadership that you have exercised during the course of these constitutional

discussions. We have from the Assembly of First Nations attempted to accommodate, respect and be sensitive to the positions that had been put out by the various provincial delegations throughout the course of the year.

We have come to a point in time where it is clear that this process will not result in a constitutional entrenchment that will recognize our right to self-government because the position taken by the provincial governments because they are not prepared to entertain entrenchment for a number of reasons.

We have taken the position consistently throughout the year, Mr. Prime Minister, that we value the special relationship that we have with the federal government, that we have with the Crown, that we have as a result of the constitutional recognition of our rights both treaty and aboriginal. We feel that the time has come for us to exercise what we perceive to be our special position in the Constitution which is simply one that would allow the federal government to move with our concurrence, with our agreement, to introduce a resolution before the House with the intent of amending the Constitution in line with its jurisdiction, in line with its responsibilities and in line with the agreements that we have by treaty and through other relationships, with or without the concurrence of the provincial governments.

We appreciate the position and the



support that has been extended by the province of Ontario, the province of Manitoba, by the province of New Brunswick and we feel that there is enough support from those governments to warrant moving immediately on this issue and to try and see if the provinces can be brought on line. If they choose not to participate that is their choice. We have made an attempt to accommodate their interests. We have made an attempt to be sensitive to their interests and we see no reason why we cannot move forward both on the basis of your document and the amendments that have been tabled by our delegation.

I will ask our national chief to conclude. This is our suggestion to you at the present time.

MR. DAVID AHENAKEW (Assembly of First Nations): Prime Minister, I understand by the report of the Justice Minister that we are not even making progress slowly any more. I didn't expect that. I expected great things to happen at this conference. It is a constitutional conference for aboriginal and treaty people, that is what it is all about. We are not here to discuss programs and those matters that are already entrenched in the Constitution. We are here to make sure that the security of the First Nations continues forever, that is the purpose of our being here. If those provinces who want to discuss programs, policies and other matters like that, there is a different forum for that and everybody knows that. Let's get back to the basics of why we are here.

We have examined your proposal very carefully, Mr. Prime Minister, and it can serve as a document to work from although we have some concerns and difficulties with much of the wording. We can incorporate our own positions in that proposal that you tabled yesterday.

Our position, again we tabled that yesterday. We had expected some discussion and we hope we can have that today, but it can be summarized as follows. We want Parliament and the Legislatures and the governments of Canada and the provinces to commit themselves to preserving and enhancing the cultural heritage of the First Nations. We want them to respect our freedom to live in accordance with our heritage and to educate our children in the manner in which it will sustain and enhance that culture.

We want the provinces and the federal powers to acknowledge our right of self-government. The questions of scope jurisdictions, our fiscal arrangements can be identified and clarified through negotiations. We want the federal government and, where a First Nation requests it, the provincial government to negotiate and conclude treaties or agreements with each First Nation. Federal and provincial governments would be obliged by their constitution to respect those treaties. None of this expands the jurisdiction of federal or provincial governments over us. None of this changes the special relationship that we have and which is guaranteed to us by the Royal Proclamation and the Constitution. None of this means we cannot pursue our bilateral process with the federal government. We must have self-government constitutionally recognized. We have seen kings, queens, colonial governments, prime ministers and premiers come and go. We are still here and we will continue to be here. Our position has never changed and it is not going to change in the future. If we don't succeed today, we will be here tomorrow. If this generation is too weak to overcome the problems that we face right now, our children, maybe our grandchildren, will find the strength and, if not, their children. Our own grandchildren will have to pay the price for our failures, our failure to come to grips with the obligations that

must be corrected and the responsibilities that go along with those obligations. They must be dealt with and they must be dealt with with justice and honour in this country.

Each year the problem becomes more difficult to resolve. Each year the cost becomes higher. I hope our grandchildren will ask us why we did this to them. We are tired of having you people tell us what we think, of interpreting what you think it is we really want, of telling us our demands are only symbolic and that what we need is real change. We have told you very clearly what must be done for you and everybody else to remedy your most persistent and spectacular human rights failure and we will speak for ourselves..If there is no intention around this table to come to any form of an agreement that is substantive and reflects our agenda, let's not continue to talk about them. Let's not waste each other's time. There is justice to be done in this country and we must come to grips with it now. Prime Minister, I thank you for your leadership, for your decisiveness to deal with the first issue this country has ever faced and that is us, the First Nations. We have a special relationship with the federal government under 91(24) and that is the way it is going to be unless you and I agree that that should be changed. We cannot continue, Prime Minister, discussing matters in the periphery. We tabled yesterday draft amendments to the Constitution



and I hope we can get back to that. Section 35(1) says "Aboriginal title, aboriginal rights and treaty rights of the aboriginal people of Canada are hereby recognized, affirmed and guaranteed." That is our proposal. 35(1) continues to say for greater certainty "The titles and rights referred to in Section 35(1) constitute both collective and individual rights and include, but are not limited to the ownership and jurisdiction of all land and resources within the traditional territories of each First Nation, subject only to such other ownership or jurisdiction as has been acquired with the true and formal consent of the First Nations. The Inherent right of each First Nation to self-government." It goes on that way, Prime Minister. We felt that these were absolutely reasonable matters to be dealt with in an equitable manner and I believe it still can be done. I thank the provinces that have come forward and said "let's deal with this issue decisively now," I thank them very much. I hope the other provinces that want to sign just a political accord that doesn't really mean anything will change their minds also. I hope Canadians will see that change is required and security for the First Nations is a fact of life. That is what we came here for, Prime Minister, and that is what we expect to walk out of here with. We are reasonable people and we always have been. We are tolerant, we are patient. We have to be.

We have demonstrated that here century after century, always saying let's have goodwill, good faith and let's make that real. Thank you.

THE CHAIRMAN: Thank you, Chief Ahenakew. Now I recognize Mr. Sinclair of the Metis National Council.

MR. JIM SINCLAIR (Metis National Council Executive Committee, Saskatchewan):

Mr. Prime Minister and other delegates, I had the opportunity to attend the meeting this morning and I too was disappointed at the results. People got up and said that they didn't want to cheapen the Constitution. Some people got up and described the constitutional process we are having now as a union agreement where it changes every year, but I would like to remind the people around this table that after 1987 if our rights are not defined and entrenched then we will have no rights. The Constitution will not be opened up for a number of years. There are others who said that they want to reach a political agreement today and I think again a political agreement is not needed because we made an agreement last year to continue this process. There are guaranteed meetings until 1987. Why would we need an agreement to tell us we are going to have another meeting next year? To me I am worried that this Constitution is becoming the articles of surrender disguised as a charter of rights. That is not why I am at this table. I come to this table to deal in good

faith and I see the rights of our people slipping away slowly because the provinces cannot come to an agreement on whether to support the aboriginal people or not. Canadians have spent a lot of money and a lot of time and a lot of years in developing the position on this Constitution. There have been a lot of arguments in bringing it into being and there was one minor section within that Constitution that was important to our people and I don't think any less important to all Canadians and that was to define and recognize aboriginal rights, the rights of aboriginal peoples and entrench them in the Constitution. Your job, Mr. Prime Minister, as I said before, has been 95 per cent complete. The job of our people has only been about five per cent complete because we have got that long way to go and we have only got a couple more meetings yet to define those rights and have them entrenched in the Constitution. Your position on self-government, the amendment you brought forward yesterday, we agree to it, but we think it needs some refining. We think that number one self-government should be entrenched immediately in the Constitution. We feel that number two a constitutional amendment to entrench self-government shall not have effect until 1987. Number three, that the interim jurisdiction for self-government would be negotiated to be included in the Constitution in 1987. It would be much the

same as the rights, discriminatory rights in the Constitution would not have effect for three years after the Constitution came into power and I am putting that forward because many people around this table have expressed the fact that they don't realize or don't know the parameters of self-government. Both the aboriginal peoples and governments are a little leery at what self-government means. Therefore we need some bargaining power and we need to strengthen our position in this constitutional process and I would support Mr. Ahenakew's concept that the federal government does introduce legislation into Parliament in regard to self-government for aboriginal people. We would support that but the fact of introducing it without identifying who would have that self-government is a difficulty for the Metis, but I understand that we have got some negotiating to do so I want to make my remarks not too long, but again I have an idea. We put it forward and I wish we would discuss it because I will not agree to sign a political accord. I will not leave this meeting with the feeling that we did make some progress. If we don't make any progress let the public know we haven't made any progress and that the aboriginal leaders are here intent on dealing with rights and not progress.

THE CHAIRMAN: Premier Hatfield, I need your guidance. Shall we continue with this general discussion for a little while? I sense



from the delegates you want to deal particularly with the subject of equality between men and women.

HON. RICHARD HATFIELD: New Brunswick wanted to deal with the question of equality but we can deal with it whenever you raise it for further discussion.

THE CHAIRMAN: I will hear further general points and then we will deal with this more particular one. I believe Mr. Amagoalik has asked for the floor. Am I correct? Then Mr. Daniels.

MR. JOHN AMAGOALIK (Co-Chairman, Inuit Committee on National Issues): Thank you, Mr. Chairman, I just want to indicate that the Inuit support what the Assembly of First Nations and the Metis National Council have just said. I want to touch on what Mr. Sinclair touched on a while ago about cheapening the Constitution. I understand that some of the provinces are afraid of changing the Constitution at every whim. Now is the recognition of self-government a whim? Is the equality clause for men and women a whim? I mean this is the attitude that we have to deal with and one of the officials in our meeting in Yellowknife said something to the effect that the only right we have is the right to surrender those rights. I mean that is the attitude that we have to deal with and I find that totally unacceptable.

Now the Inuit want two things. We want the equality between men and women recognized.

We want self-government to be recognized and entrenched in the Constitution. Now people might say these are constitutional issues. I agree they are constitutional issues around this table but let me try and put it in terms that everyone can understand. What does the equality clause mean? I means that we want to recognize the equality between men and women. I suggest that those provinces which do not agree with that, I suggest that they are sexist and I suggest that the provinces that do not want to recognize our right to self-government, I suggest that they are racist and these are the things that everybody can understand. Now we support going ahead and signing an agreement with those who are prepared to do so and we urge the Prime Minister to start the process of introducing whatever legislation is necessary to do this. I would like Zebedee to finish our comments.

THE CHAIRMAN: Excuse me. Let me be clear. You said you urged us to sign an agreement but earlier you seemed to be talking about the constitutional route. I understand you want an agreement on the Constitution because the others have used the word "agreement" in the other sense. I understand.

MR. ZEBEDEE NUNGAK: Mr. Chairman, to conclude the remarks we want to make on behalf of the Inuit, I think I have to say that throughout the last 12 months since the last First Ministers Conference we have been consistent and I think the Inuit have done a commendable job of educating the various governments and meeting their need to know on the concepts that we are aiming for and what our positions are on them. I don't think that anybody can tell us that our position has been vague or that what we have said has been poorly defined or poorly understood. I am heartened -- I was heartened to hear yesterday that some governments have been listening to us in the last 12 months.

As an example of that I quote from Premier Hatfield's remarks that he advocates that we now agree to entrench in the Constitution at 1982 the right of aboriginal peoples to self-governing structures within the Canadian federation. He goes on to say in the second paragraph that "It has been my experience that recognition of a right is a necessary first step to the responsible definition and development of that right."

I respect Mr. Hatfield's experience here because to my understanding he is one of the longest-serving Premiers in the country and in his experience recognition of a right is a necessary first step to greater things, we agree with him on that and we have been working in the past 12 months to show concrete examples of what is possible. We have been using the example of the evolution taking place

in Nunavut on self-government and the example of the Kativik Regional Government in northern Quebec. These are examples that we did not pick out of thin air and these are not examples that are philosophical musings of any of us. These things are actually going on in the country today and I think if the provinces who oppose or who have trouble understanding our aspiration to self-government cannot accept that, well that is a great tragedy not only for them but for the people they serve, because our examples have shown that a degree of self-government for northerners or for the Inuit has not diminished or taken away or eroded any of the jurisdiction of the government of Nunavut or the government of Quebec. In fact, in many ways it enhances it and I think that the Northwest Territories and Quebec -- the government of Quebec can attest to that.

So I just want to echo the points made by the AFN and the NCC that we have expectations, these expectations we know have been tried to be lowered by what many governments are saying and in fact there have been attempts not only to lower our expectations but to dash our expectations outright, but we have to let you know that we have expectations if the present leadership, the Inuit leadership cannot produce or convince enough governments that accomplishment is possible, we have more radical people who are ready to take over the leadership in order that something gets done.

We have been very careful thus far to be moderate, to be pragmatic, but in having



done so we have encountered some dogmatic governments who have refused to budge or change from their mind sets that they have kept all throughout and even after having heard what we want, what our aspirations are in the area of self-government.

So if there is room for movement here somewhere, if there is room for signing a constitutional document that is what we urge with those who are ready to do so.

Thank you.

THE CHAIRMAN: Well, I have Mr. Daniels of the Native Council of Canada.

MR. HARRY DANIELS (Vice-President, Native Council of Canada): Thank you, Mr. Prime Minister. Although the meetings upstairs did not produce or come to an end that we thought would be more beneficial to us, we don't think that that process should be thrown aside. In the stricter terms of this conference, we can support the accord and amendments put on the table yesterday by the Prime Minister with minor changes. There is some language in there that we are not happy with and we would like to change that, some of it.

We would like to see also at this conference entrenchment of self-government in keeping with our stated objective yesterday of entrench now and negotiate the terms later and the extent of the application.

We would also like to see our amendment

on the equality clause put into the Constitution and entrenched now.

As between aboriginal peoples -- taking it beyond just between the sexes, but to state between aboriginal peoples and make that clear.

We also appreciate the initiatives taken by yourself, Mr. Prime Minister, to bring this type of conference together and take an initiative of that nature. Yesterday I saw -- we had five provinces who in one way or another were saying possibly that the Metis and non-status Indians were Indians for Section 91(24). We would like to see some initiatives taken in that regard by the federal government and if possible to act unilaterally and to introduce legislation in your House. It's a simple change of wording to read "aboriginal people and lands reserved for aboriginal people" and then to set up a mechanism and a process that we can bring together and establish the parameters to guide us in future negotiations and give it a focus.

We also have on the floor a proposed amendment to include pre-confederation treaties. It is very important to some of our constituents in Nova Scotia and the Maritime provinces, New Brunswick. We talked yesterday about a delay mechanism that would allow this type of thing to happen. I say some of these things because the AFN moments ago expressed some concerns even though they have treaties and rights beyond ours, then I

would suggest to yourself and to the Canadian public that we also have many great concerns and we come to this table with a good feeling and with a wish for success and that can only be achieved by mutual respect. If we do not have that mutual respect then we aren't going to get very far, and we have a great deal of respect for the government of Canada, the provincial governments and the people around this table.

Whatever agreement that we meet with at the end of this conference should be more than an agreement to meet. I think that we should and I will just go back to entrenched self-governments, the equality clause and the acceptance of the federal responsibility for the Metis and non-status Indians. I think we have to have a commitment to change.

Thank you very much.

THE CHAIRMAN: I will recognize Mr. McIvor of the Metis National Council.

MR. DON McIVOR (Metis National Council Executive Committee, Manitoba): Thank you, Mr. Prime Minister. I think from what has been said this morning and from what Mr. Sinclair has said that I think one of the things we were trying to do here is to provide that type of an option that would be agreeable to the rest of the provinces and to the federal government, but I think from the meetings we had this morning they were very discouraging. To me I thought we were at the hands

of bureaucrats and not politicians. I think it is unfair for them to have us at the whim of their power. They have always said that we are partners in everything that we do, but it seems to me that as long as we were the partners and that we were the givers that everything was okay and I think that today demonstrated that in that meeting this morning and that while it has been escalated to a higher level of Premiers and the Prime Minister, I think that an agreement could be reached from the suggestions that we made. I think everybody, every government has an obligation to the aboriginal people.

I wouldn't want to go into the 91(24), because I believe that that was discussed quite thoroughly yesterday. I think this is a better option. I think if it is not entrenched until 1987 it will give us a better understanding of some of the problems that Saskatchewan and others, B.C. have. I don't think we have to go into detail with everything that we do here, but I do think that that type of red-neck attitude has got to be sort of reassessed by those types of provinces because when it comes to a situation like it happened this morning where I happened to get up early this morning to go and do my swim and a few exercises because I happen to be a little too heavyweight, I came into the room and I seen Mr. Peckford saying that it wasn't fair for him losing oil. Now we are at the whim of these people. When they say, "We don't have the constitutional right to have self-



government" and yet he is saying the federal government is taking oil away from him and it should belong to Newfoundland. Now, if that is the case then I suggest that maybe we will all be ending up in courts and this is not the reason why we are here. We are here for a political solution and I don't think a political accord could achieve that. I think we have to be honest with ourselves. I think we have to agree that if self-government is entrenched that we can work out those jurisdictional differences between the provinces and the federal government as we go.

I don't think we are like Beirut and a lot of those other countries that are fighting for a little bit of ground here, a little bit of ground there but it might have to come to that and we don't want to push it to that length. I think we are reasonable enough people, even people with great education to migrate forth and understand that we have to agree to how we can better our lives in this country. I don't believe that the provinces have been realistic. They have been very, I suppose you could say, they are very colonial and I thought we sort of wiped that away a long time ago but it seems to me when it is stepping on the feet of some colonists that it is hitting too close to home, that we are people from a different country. We live in this Canada and we want to live and we want to agree that we can all live together. I think that is the crunch today. We cannot allow ourselves to be degraded to second class citizens. I know it is not a good word, but I daresay that that is exactly where the Metis people have been put at this stage. I think it is the fault of the provinces more than anybody else and this is the reason why we want a political settlement on self-government. It should not have to be through the bureaucratic proccess because some of the AG's through their electorate seem to think they are more bureaucrats than politicians. Thank you very much.

THE CHAIRMAN: Thank you. We have

heard from the four aboriginal group spokesmen.

I will now hear from the government of the Northwest Territories, government of Québec, government of Ontario and so it will go.

Mr. Patterson.

HON. DENNIS PATTERSON (Minister, Aboriginal Rights & Constitutional Development, Northwest Territories): Thank you very much, Mr. Chairman. I don't think this morning's meeting was quite as negative as it is made out because I think we came quite close to coming to some agreements and finding some common ground. I would like to just take a moment, if I may, to see if in this room we might come a little closer. First of all, Mr. Chairman, I don't think we really did the issue of equality justice yesterday. I think whatever happened happened rather quickly and I really think that there is agreement that this section has to be fixed up. The existing Section 35(4) I think everyone can agree is limited. It certainly has not satisfied the aboriginal women. It talks about existing rights and may not include future rights, perhaps may not include past rights. It is confined only to aboriginal and treaty rights. It may not include statutory rights. It may not preclude discrimination in a land claims settlement. I think we can all agree that we want to eliminate forever the possibility of a section like the one

in the Indian Act which we are pleased there has been a commitment to remove, but that should never be possible ever again and I think that the aboriginal people, women and men in Canada, deserve some accountability as to why agreement cannot be reached to fix up this section if indeed we can't. I believe we have six provinces saying that it should be fixed up, that Section 25 is really an interpretive section and a negative statement of the right, the proposed amendment in your accord and the way to do it, if we are going to create equality of rights, is to have a new Section 35(4) in positive terms stating that all rights of aboriginal women, aboriginal treaty and other rights and freedoms that pertain to them are guaranteed equally to male and female persons in Canada. I think we can agree on that here and come up with some concrete progress to show the country today and to keep this wonderful union between the aboriginal peoples and the governments of this country together.

Now on self-government if I may just briefly, Mr. Chairman, we are naturally in the Northwest Territories concerned that there isn't the will to take the bold step and either entrench self-government now or promise to commit ourselves to entrench it a couple of years down the road, but we recognize that that notion is now dead in the water. It is not going to fly here and we have been told why. However, I think we are agreed that we will work towards entrenching self-government in



the Canadian Constitution, that it requires negotiations with the various jurisdictions involved and that it will take different forms in the country. So I would like to suggest that we should not discard the possibility of at least recognizing what we can agree on. Whether it is by a political accord or whether it is in the constitutional accord let's look for a statement of common ground in that regard by the end of the day. Just a small point, but we are sure that you overlooked the Northwest Territories when you talked about provinces and the federal government being involved in this negotiation process because we are grateful that you have recognized the progress we are making in the Northwest Territories to negotiate reasonable new forms of government in the context of a divided territories and we are sure that it would be recognized that we are involved in doing important work in this area in such an accord. Thank you.

THE CHAIRMAN: Well, in an accord, whether it be a constitutional one or not, I take it we would follow last year's procedure where the territories were signatories along with the provinces in the form that it was done last year. We can return to that if we get something to sign.

HON. DENNIS PATTERSON: Mr. Chairman, it is more than just being signatory to the accord. We want you to recognize that we are negotiating self-government now in the Northwest Territories with

the aboriginal people and with the federal government with your help and support and we would like to be mentioned when it talks about governments being involved. It is more than being a signatory. Thank you.

THE CHAIRMAN: I see your point, but it comes along with several other suggestions that they like the federal formulation providing several things were changed in it. I can tell you that is a sure recipe for losing whatever support we have on the frail, small consensus we have now, so I am not objecting to any suggested amendment but I would just put at this point that it might be wise to consider if we are going to change anything that we think of technical changes rather than substantive ones. But I will make the point again at the end when we begin to decide the course we are going to follow. I will now recognize Mr. Max Gros-Louis, de la délégation du Québec.

M. MAX GROS-LOUIS (Grand Chef huron de Loretteville) (Délégation québécoise):  
 Merci beaucoup, monsieur le président.

J'aimerais en tout premier lieu profiter de l'occasion pour vous féliciter du travail que vous avez fait pendant 16 ans et la facilité qu'on a eue de vous rencontrer, parler avec vous concernant les droits sur les Indiens et je crois que vous l'avez fait avec de très bonnes intentions.

Vos citoyens canadiens vont certainement perdre un grand homme.

On était venus ici aujourd'hui et on croyait encore qu'on était pour en ressortir avec beaucoup de choses mais je peux vous dire qu'en tant que Grand Chef de la Nation huronne, je repars très désappointé et je dois vous dire que c'est une tragédie.

C'est pourquoi les Hurons, et plusieurs nations indiennes, croient que les gouvernements provinciaux sont des gouvernements d'immigrants et qu'ils n'ont aucun droit de légiférer sur les Indiens et ça nous le prouve encore aujourd'hui, parce que pour la plupart d'entre vous, vous ne voulez pas reconnaître qu'on était les premières nations, vous ne voulez pas reconnaître qu'on a certains pouvoirs et qu'on pourrait, à travers ces pouvoirs, à travers nos gouvernements indiens, régler plusieurs choses.

Si vous permettez, on parle d'égalité. Vous cherchez toutes sortes de moyens pour reconnaître les femmes. Donnez donc de

l'autorité au Conseil de la bande, donnez donc de l'autorité aux premières nations, nous connaissons nos gens et, pour nous, un Indien, c'est un enfant, c'est une femme et c'est un homme. Le mot égalité, ça n'existe pas chez nous parce que c'est vous qui avez créé cette chose, c'est vous qui avez créé toute cette bataille d'égalité pour éteindre les droits des Indiens et surtout des femmes.

Le peuple huron est souverain et depuis toujours et nous voulons y demeurer aussi. Il y a aussi d'autres peuples indiens qui le sont et j'aimerais être très bref, j'aimerais si vous voulez laisser la parole à une autre nation, la nation mohawk qui, à travers monsieur Billy Two Rivers, voudrait vous dire quelques mots.

Je vous remercie de votre attention, monsieur le président.

LE PRESIDENT: Monsieur Gros-Louis, merci. Monsieur Two Rivers.

MR. BILLY TWO RIVERS (Chef du Conseil de bande de Kahnawake): Speaking in Native language.



Good morning, brothers and sisters.

I call you brothers and sisters because when you arrived in our land as our guest we established that we were brothers and sisters and today when you have become our permanent guests we still call you brothers and sisters. Thank you for these brief moments to say a few words. My name is Billy Two Rivers and I am a citizen of the Mohawk Nation residing in the Kahnawake territory. Today I am not speaking as a member of the Canadian government band council system, but, rather, from the birthright I have been gifted with as a Mohawk person. My remarks are presented here for the purpose of stating the position of an aboriginal government whose voice is not represented in this process here. What I present here are the positions of the Six Nations, Iroquois Confederacy consisting of 18 communities and nearly 100,000 people living within our homelands which are currently disrupted by the international boundary between the U.S. and Canada.

The Haudenosaunee Six Nations Confederacy in recent months and years has observed the confusion that is evident among the Canadian people and the Canadian government over the issues of sovereignty, government and nationhood. There is discussion in the committee of the Parliament of Canada concerning sovereignty, constitutional arrangements and Indian self-government.

The Haudenosaunee Six Nations

Confederacy is sovereign in the international community, not within the Canadian or American context. The Haudenosaunee Six Nations Confederacy have no desire to separate from Canada, since the Confederacy have never been part of Canada. We have always had our own country and our own government.

The Confederacy throughout its entire history of contact with the Europeans down to the 19th century has always declared itself to be independent of and not subject to other nations. This was made known to the Dutch, the French, British and other nations. Throughout the 20th century the Haudenosaunee people have made it known to Canada and the United States that we are neither Canadian nor American. We are Haudenosaunee.

The Confederacy have been and continue to be firmly resolved not to allow themselves or their nations to be absorbed by any process of Canadianization. Therefore, the new Constitution that has been granted to the Parliament of Canada by Great Britain will have no jurisdictional authority within our territories or over our people. Again we remind Canada that this is not a new position but this is one that we have held throughout our long history with Great Britain and with Canada as one of its dominions. Our people are citizens of our nation and do not seek citizenship within the nation of Canada. Any effort to subjugate our people under "Canada" is a violation of our right to self-determination under international law

for which we hold Canada responsible within the world community. We will resist any attempts to force jurisdiction or alienation of our lands upon us with all the means at our disposal.

Since the opening moves of Canada to patriate its Constitution the Grand Council of the Iroquois Confederacy has opposed the Canadian Constitution as having any affect on our people or our homelands. Our position is rooted in the international principles established in the two-row wampum belt. We are separate and independent national entities. Our government granted the right to exist to the British Crown in Canada, in North America for that matter, that neither government will create legislation that will interfere with the internal workings of the other, that there is a sharing of the mutual land known as North America but the terms of that sharing will be subject to ongoing talks, negotiations and other mutually agreed-upon processes for disputed settlement.

We are also in full opposition to any other processes, whether directly or indirectly linked to the Canadian constitutional process that in any manner threatens our homelands, freedoms and rights. This includes a rejection of the report of the Special Committee on Indian Self-Government, rejection of the land claims process and the models as established by Canada and the using of so-called native organizations for the purpose of entrenching Canadian colonial policy in native national territories.

We have always held that we are not citizens of either Canada or the United States. Our assertion of this position has set off a minor flap amongst some Canadian politicians. While we maintain this right to our own nationality out of the fact of our historical national existence, our position is further bolstered by international law through the Covenant on the Reduction of Statelessness to which Canada is a signatory.

This covenant establishes rules and procedures for the extending of one's nationality over other people.

In the context of Indian people, Canada had to first seek our consent which it failed to do out of its own racist arrogance. What we would rather -- what we would consider is a bilateral process which would be a process which adheres to the principles set forth in the



two-row wampum with an added element. We should be convinced by now that there is no honour in Canada. More than 300 years should have convinced us that they are not a people of their word. In light of this reality, we seek international assistance in our discussions with Canada and the United States. This assistance can come from the United States in a variety of forms.

First, there is the Trusteeship Council. Membership is made up of various member states, and the council is charged with the responsibility of overseeing relations between states who have taken on trustee obligations towards a smaller state. Their primary job is to insure that the larger states do not infringe on the fundamental freedoms and rights to self-determination of the rights of smaller states.

Secondly, there is the Human Rights Commission, which has two elements of concern to us; the Committee on Decolonization, and the Working Group on Indigenous Peoples.

In any event, we foresee a long protracted process that will span many years. We are convinced that any attempt to work within the context of the Canadian constitutional process, as currently defined, will lead to a greater loss of land and freedom.

The Haudenosaunee Six Nations Confederacy have made a series of presentations to various entities concerning our positions. In June, 1983, we made a presentation to the Special

Committee on Indian Self-Government in Ottawa; in November 1983, a presentation was made to the National Assembly of Quebec in Quebec City, and in December 1983, a presentation was made to Federal-Provincial Meeting of Officials on Aboriginal Constitutional Matters. These presentations articulate in detail the position of the Confederacy of the Haudenosaunee.

Thank you very much.

THE CHAIRMAN: Thank you very much, Mr. Two Rivers.

MR. BILLY TWO RIVERS: Now, would you give time to my colleague?

THE CHAIRMAN: Before you leave the Chair, I must say that when you said your words caused a minor flap amongst Canadian politicians, I can no longer speak for Canadian politicians, but as Chairman they do cause me some difficulty. I wonder if you are a part of the Quebec delegation and if you are speaking on behalf of the Quebec government; if so, I find some contradiction within that.

MR. BILLY TWO RIVERS: No, Brother Trudeau, I am not speaking for the government of Quebec. It was clearly stated in my opening statement that I am reading a position of the Iroquois Confederacy and not the province of Quebec. I am sure that you have experienced over the years that Quebec can speak for itself.

Thank you.

--- Applause

THE CHAIRMAN: Well, I take the point, but since Quebec can't speak for itself I ask

the Premier of Quebec. I don't see that the task of a Chairman will be made any simpler if I have to seek a consensus not only between the various delegations officially at the table, but amongst other delegations. We can all bring up people who will make positions that are not those of the delegations. I don't want to dwell on that, but I suggest that it would not be a practice that other delegations should be encouraged to follow.

Mr. Davis, are you speaking for the Ontario delegation?

MR. DAVIS: I am speaking for my granddaughter who is a seven-month permanent guest of Canada.

Mr. Prime Minister, I won't comment on what Billy Two Rivers has said. I will leave that up to the Premier of Quebec to solve in his own inimitable fashion.

I guess, Mr. Prime Minister, that my views will be hopefully briefly stated. I suggested yesterday the entrenchment of principles. This was without benefit in advance of the federal position and I am not being critical of that, Mr. Prime Minister, whether if that had been circulated a couple of weeks ago and if everybody had had an opportunity to digest it. I guess what I sometimes find frustrating at these conferences is that we face certain time parameters. The ministers met this morning for roughly an hour and a quarter and knowing that people like Mr. Daniels and others take at least five minutes to clear their

throat before they offer a contribution, it is sort of a limiting time in order to see ---

MR. HARRY DANIELS: (No microphone on)

HON. WILLIAM G. DAVIS: Listen, what stool were you on last night?

MR. HARRY DANIELS: Next to you for a time I thought

HON. WILLIAM G. DAVIS: Not totally close to me, but I say I find it frustrating and as I say I have no advice to offer, Mr. Prime Minister. It is a very difficult task to get such a diverse group of people, politicians, representatives of the native communities to really deal with these issues and substance in what is a very limited period of time.

I guess I feel a bit badly, Mr. Prime Minister, because I think over the past year certainly in terms of time a great deal of effort has been expended. I think we may not feel so at this moment. I would like to think that a fair degree of progress has been made and I hope that whatever results may emerge from this meeting that we don't become somewhat discouraged or intimidated that the task is too great for us.

Ontario's position, Mr. Prime Minister, is really relatively simple. As I listened to the discussions yesterday, I have always been impressed at these meetings as to the differences that exist in this country, the diversity, the way matters are dealt with and within individual provinces and I don't think that is going to change, but



at the same time I think on an issue of this significance for the people of Canada that there is something as simplistic as trust, something as simplistic as the goodwill that hopefully exists and the objectives that we all share, whether we share the means of achieving those objectives in the same manner and that is to determine the proper role within, and I know this will offend Billy Two Rivers and perhaps the Premier of Quebec, within the Canadian federation, a solution to these problems.

Ontario has, Mr. Prime Minister, made it clear that we think in terms of the principles our ultimate objections that we would support the concept of entrenchment and I assure my fellow provincial Premiers that we don't have any clearer definition than they do of exactly what we all mean by self-government.

I say, with the greatest of respect to our own native leaders within our own province that I am not sure there is total unanimity as to what they envisage as being self-government, whether it is a self-government process that is consistent throughout the entire province of Ontario, whether there will be a diversity within our own province in terms of self-government.

There was one area, Mr. Prime Minister, in the federal proposal and I think you explained your approach to it. We believe, and I think this is different from other provinces, that there is a genuine federal involvement with respect

to the non-status and the Metis and this isn't a question, Mr. Prime Minister, of Ontario sort of saying opting out. Perhaps it would be possible for a tri-partite arrangement to see if we can come to grips with this in terms of the province of Ontario, I don't know but, certainly we would be more than prepared to try.

Mr. Prime Minister, I don't know that it is beyond our creative capacity to find other ways in terms of the Metis say within Ontario, of approaching this without necessarily a land base as it relates to the economic well-being of the Metis. I just can't answer that question, but I think we should be certainly within our own province approaching it in that fashion.

So, Mr. Prime Minister, I guess I facetiously said yesterday you had 22 of these. I haven't as First Minister, but I think I have been at most of them as either a First Minister or Premier and I expect to be at several more over the next many years, but I just don't want to be dealing with this issue in perpetuity if we can avoid it. I guess my sense of how these things work is if we have an objective that is there, that we know we have to as political leaders and leaders of the native community meet, that if that objective is there and an obligation upon us to do it other than our goodwill, the likelihood of achieving it becomes greater and so that is why Ontario and I appreciate the concern expressed by my fellow Premiers, that is why, Mr. Prime Minister, we would have

written your presentation somewhat differently.

Our technical people are very competent and they would have crossed the t's at a different angle and the i's would have been dotted, but you know we can work that sort of thing out, but we would support the federal position because it is not inconsistent with our own with the very simple belief that this is a matter of genuine concern to the people of Canada, not just to the native people, that we have the capacity as political leaders to demonstrate the political commitment and I think that is what we are talking about, to resolving this issue and that we would like to see put into the Constitution some objective that would impose upon us an obligation to see that it is achieved.

So, Mr. Prime Minister, Ontario would accept the federal proposal. We might have some minor variations to suggest. We are insisting that the question of the non-status and the Metis be given special and very careful consideration, but I guess as one who has not had the same depth of experience as yourself, sir, I really believe that if we have an objective in front of us it makes it easier, not easier, but I think it makes it more likely that we will come to a reasonable solution. We really are talking about I think a form of trust, a form of goodwill.

I have to say this very personally. In Ontario the native leaders have not always agreed with the government of Ontario. We have had our differences, but I would like to think there is a mutual respect at least in what we are trying to achieve. So, Mr. Prime Minister, we would support and we will also sign a form of political accord if something can be developed that is satisfactory to the native people, but I sense that some feel that might be a step backward in terms of what has already been accomplished and I would respect that point of view. As I say, Ontario, Mr. Prime Minister, is always flexible. We will support whatever in our conscience we believe to be right. We just happen to think that in this case if we can make this step forward it is really in terms of principle somewhat symbolic, but we think it would give us an objective or a goal that is attainable.

THE CHAIRMAN: Thank you, Mr. Davis. Again as Chairman and seeking consensus I think at this point I have a request for the floor from several other aboriginal spokesmen, but I would prefer to recognize a few more of the provinces or perhaps the other territories before -- if indeed they want to speak. You are helping me, Mr. Davis, in at least planning the conclusions I will try to reach. I suppose you have been helping other people by stating your plans. You said several more such conferences? The second will be 1987. You are tipping your hand I think.



HON. WILLIAM G. DAVIS: Certainly. I am looking forward to the one on the 15th, 16th and 17th of June of this year.

THE CHAIRMAN: We can arrange for you to vote. (Laughter)

HON. WILLIAM G. DAVIS: It might surprise you who I vote for.

THE CHAIRMAN: Premier Pawley.

HON. HOWARD PAWLEY (Premier, Manitoba): Thank you very much, Mr. Prime Minister. I guess I would like to share some of the sentiments of disappointment that have been expressed as to the extent of progress up to this point. At the same time to express the trust that we can ensure that we do leave this conference with some significant progress. I know it will be difficult. I know during a two-day conference of this nature it is frequently very, very difficult in order to arrive at a position that we can indeed as representatives of our governments feel comfortable with. I think it is important, Mr. Prime Minister, that we not leave this conference without significant progress insofar as our aboriginal peoples are concerned and the organizations that represent them at this conference. Mr. Prime Minister, I felt that we had arrived here to do constitutional business and to ensure that we take another step along that road that you mentioned yesterday toward making real progress along that road. I would like to thank, Mr. Prime Minister, and certainly

Manitoba is prepared to support a constitutional accord, the institutions of self-government. We find our position to be not inconsistent with the proposals tabled by yourself yesterday and, like Premier Davis of Ontario, we would be prepared to agree to the enshrining within the constitutional process of a form of self-government with respect to the institutions. I don't think that is a radical or a move that should indeed concern us around this table. It simply permits people to arrive at their own destinies, to ensure greater control of their own destinies, to be able to evolve towards a situation by which they can ensure their own economic and social destinies, not only for themselves, but for their children and their children's children are within their hands and not as pursuant to the Indian Act or pursuant to a lack of control that they feel expressed through other governments. It is democratic. It is just a move I think that really has to inspire the individual and the spirit and would certainly give confidence and hope and expectation to the aboriginal peoples of Canada. So Manitoba does support the enshrinement of such a constitutional entrenchment.

I would also hope, Mr. Chairman, that like Premier Davis we don't continue to come in perpetuity and appear to make very, very little progress in respect to the meetings that have been provided for, in respect to the constitutional

proposals we have up 1987. I would think it would be ill-fated indeed if we left this conference with very little progress to report. We would continue to meet in perpetuity without really establishing more than, at the very best, inches along that journey that we are trying to travel that you made reference to yesterday. I think there are amendments that are possible at this meeting. I think we should be prepared to examine those amendments and specifically I would like to refer you, Mr. Chairman, to the amendment we made with regard to 35(1), proposed in respect to 35(1) that we believe would make it more clear, more certain, more implicit, explicit that aboriginal rights are constitutionally protected and not just symbolically acknowledged by the Constitution in 35(1) and therefore we proposed the addition of the words "in constitutionally guaranteed" or "in constitutionally protected." Also we proposed, Mr. Prime Minister, that there be a remedies clause in respect to aboriginal rights and we suggest that Section 35(5) would read "Any person or group whose rights as guaranteed by this part have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. An application on behalf of a group may be brought by a representative aboriginal organization or a government entity." Also, Mr. Chairman, we support an equality rights amendment to 35(4) and we made a

proposal in respect to clarifying equality at the earlier meeting of officials. I believe you have a text of that wording, Mr. Prime Minister. If this wording does not satisfactorily clarify the issue then certainly Manitoba would be flexible in looking at other alternatives that would be arrived at. I think, Mr. Prime Minister, though we have reached a crossroads at this conference. Either we can make some significant progress as leadership in Canada, as government leadership, leadership of aboriginal peoples, significant progress to ensuring that there be a greater sense of self-government, greater sense of communities, individuals controlling their own destinies economically and socially, not being dependent upon acts that are alien, acts that do not contribute towards social and economic well being or the other fork in the road unfortunately would be the road that would lead us to greater frustration, greater disappointment and could in fact jeopardize the progress we put in motion a year ago. So, Mr. Prime Minister, I would hope that we could share sufficient trust, respect amongst ourselves and attempt to overcome the difficulties. Certainly we are prepared to be flexible in presenting our position, but certainly we are prepared to as Manitoba accept other suggestions, to make changes in respect to our position so that we do leave this conference having made some progress that we can as leaders of Canada on every front hold



our heads high and feel that we have helped to ensure that we have moved along an historic road to a better human condition. Thank you.

THE CHAIRMAN: Thank you, Premier Pawley. Any other provincial delegations? Northwest Territories? Hold on. Before I go to the second round on aboriginal spokesmen I would like to see if there are any others.

HON. EDMUND MORRIS (Minister of Social Services and Minister of Native Affairs, Nova Scotia): On Premier Buchanan's behalf he is not able to be with us at this precise moment at the table, if I may be permitted again to comment in respect of the matters which Nova Scotia placed on the table yesterday and in so doing may I say that with respect to the remarks we just heard from the distinguished Premier of Manitoba, Nova Scotia has in Premier Buchanan's statement yesterday favoured an amendment of Section 35. With the greatest respect, Prime Minister, we do not support the proposal in the federal accord, which became available to us only yesterday in draft form, which would have amended Section 25 which we believe to be interpretive and not substantive and indeed not helpful to the process and potentially somewhat confusing. In Premier Buchanan's specific proposal for a constitutional amendment concerning Section 35 we have a slightly different view of the matter than Manitoba as expressed by Premier Pawley a moment ago. We believe, Prime Minister,

that it might recommend itself to all of us today in Canada, the provinces and territories and the aboriginal representatives to bring forward an enforcement section as further evidence of goodwill and earnestness by provinces to co-operate realistically and where they can, having regard to their accountability also to non-aboriginals, that we should bring an enforcement clause into Section 35. We have at this time been happy to dialogue with other provinces here today. We have preferred to bring into Section 35 as an enforcement clause the identical wording with Section 24 of the Charter of Rights, Part I. We have done that, Prime Minister, partly in our view to avoid any possibility that if a matter became justiciable that the courts might wonder why it was in Part II we were using different enforcement language than in Part I. We have brought in in Premier Buchanan's proposal for an amendment to Section 35, we have incorporated in 35(1) the words "are constitutionally guaranteed" and a new Section 5 which has indeed the identical language of Section 24. We have also, Prime Minister, proposed that Section (4), Section 35(4) be reworded to incorporate 15(1) and (2) of the Charter of Rights so the court might not have flagged to them the difference in language in Part II and Part I.

On the broader question, Prime Minister, of an accord comparable to the Accord reached on the 16th of March, 1983, and a political accord or statement of objectives or communique, put as very briefly, Prime Minister, Nova Scotia approached the conference yesterday notwithstanding some words which we do not agree with spoken here this morning by aboriginal representatives. The provinces are part of the constitutional amending process. With the greatest respect, we do not believe that the government of Canada can unilaterally amend the Constitution of Canada. The Constitution is a statute law with provisions for amendments which are clearly set out in it.

The federal authority can amend under Section 44, but only in respect of those matters that deal exclusively with its own house. The federal government in our view has not claimed, but aboriginals have said here this morning that if they cannot move the provinces to do their will immediately that they would go the route of bilateral conversations which is all right, but they say the federal government should amend the Constitution of Canada. Our understanding is that the federal government has the right of veto over constitutional amendment, but it cannot unilaterally amend the Constitution of Canada.

We had thought, Prime Minister, in approaching the conference yesterday morning, having participated fully and earnestly in the lead-up conversations in all parts of Canada at fortnightly

intervals for the last several months that an accord was not likely to come from this conference, so the Premier of Nova Scotia proposed what we believed was the next best step, best in the eyes of the aboriginals, and that was a statement of objectives which would be in the form of a codicil or a further note to last year's Accord, a further explanation of what it would be we would do in the next year.

This morning in our ministerial meeting, Manitoba advanced, although it favoured a constitutional accord, a back-down position of a possible accord not unlike in its purposes the statement of objectives by Nova Scotia yesterday. Mr. Patterson has proposed both here and at the ministerial meeting earlier this morning, some such form of realistic and progressive step.

Our view, Prime Minister, is it now might be very useful if officials of Canada, the Territories, the aboriginal representatives and the provinces were to now or shortly hereafter, as you wish as Chairman, to be delegated to put together the possibility of something just this side of a binding political -- a binding constitutional accord, but in amplification of last year's Accord. Indeed, I am capable of saying on Premier Buchanan's behalf that the focussing of the Manitoba proposal this morning, which has had the advantage of yesterday's conversations, is not in our view grievously out of line with the proposal made by Premier Buchanan and we are willing to move to that accommodation.



In summary, we do not think we can get a binding accord, capital "A" as we did in 1983 at this conference, but we do think that we can get a documentation which would have the effect of making an agreement and commitment by all of us, Canada, the provinces, territories and aboriginals, which would focus our attention on self-governing institutions and equality, if that is not further amended at this meeting as we would wish it would be, during the next year, as an earnest undertaking of our accountability to the aboriginal peoples, but also with due respect to them, the accountability we have to other people than aboriginals in our provinces.

Thank you, Prime Minister.

THE CHAIRMAN: Thank you, Mr.

Morris.

Well, you will have to go very soon to the particular question of equality rights. At this stage -- would it be on the general topic that the -- that Mr. Mathias or Mr. Robinson wants to talk and the same for you, Mr. House, it is on the general subject.

Then on the assumption that no other provinces want to speak on this subject and that they are as I say satisfied with the summary of their position made this morning by the Federal Minister of Justice, then I will go briefly into a second round and I think I will have to -- on the first round then we have Premier Lee of Prince Edward Island.

HON. JAMES M. LEE (Premier, Prince Edward Island): Mr. Driscoll attending on behalf of the Province of Prince Edward Island this morning the ministers conference, would like to clarify a statement made by the Justice Minister pertaining to Prince Edward Island.

HON. FRED DRISCOLL (Minister of Energy and Forestry and Minister responsible for Native Affairs, Prince Edward Island): Prime Minister, as I heard the report from the Minister of Justice, Prince Edward Island was reported as having opposed this morning, at the ministers' meeting, some kind of accord and that was not the position of Prince Edward Island at that time or now. In fact the Premier's statement yesterday made it clear that we thought that might be the resolution or the means of achieving something yesterday and today.

Since you have given me the floor, Prime Minister, I might just make a very, very brief comment. I don't think we are as discouraged as some. I don't think we even agree that the report that the Minister of Justice made was as negative as he had described it. There was not wide support for constitutional change along the lines of the federal proposal. We expected that but there was much broader agreement for some kind of accord that is less than constitutional and perhaps along the lines of Nova Scotia and as Mr. Lane has explained earlier would be an amendment to the present one without us writing new accords every time we come. We think that has some possibilities, so I just wanted to

clarify that, Mr. Prime Minister, for Prince Edward Island. Our position remains that and we think that that is progress and we are not discouraged by that.

THE CHAIRMAN: Thank you, Mr. Driscoll. Any other province? Premier Devine of Saskatchewan.

HON. GRANT DEVINE (Premier, Saskatchewan): Mr. Prime Minister, I came to the conference optimistic and I am still optimistic. I am not quite sure what the concerns are with respect to the doom and gloom raised by some members and some people in the audience. I refer back to page 10 of your statements yesterday and I agree with them 100 per cent. We are here to consider institutions of self-government with respect to how these institutions should be brought into being, what should be their jurisdictions, their powers, how they should fit into the interlocking system of municipal governments, provincial governments, federal governments and so forth. All I bring to this table is a large number of questions.

Our position hasn't changed from last year. It is still the same. We reject sovereignty and when somebody proposes that they are going to put an amendment to the Constitution that talks about self-government and we don't know what that means, in terms of your own questions that you have asked, I mean how are these institutions going to be brought into being, what should be their jurisdictions, their powers, how should they fit into

interlocking systems of local government and others, and if we don't know that then it seems to me an awful lot of people in Canada are going to be asking, "Aren't we buying a bit of a pig in a poke if we are going to put this new form of government into the Constitution without knowing the answers to those questions".

I mean, I could go on, is this new form of government that we are talking about going to supply hospital and health care and educational services? Which laws will apply in this new form of government; provincial laws or federal laws or local laws or tribal laws or municipal laws? Does it mean treaty-making powers? I don't know and an awful lot of people in Saskatchewan don't know and I suggest a lot of Canadians don't know, so we are here to go to work to deal with those specifics. I am not here just to change the Constitution to a form of government that I don't understand. I am quite prepared, I am flexible, I will look at anything, look at accords, like the Premier of Ontario, I agree with everybody.

--- OFF THE RECORD DISCUSSION

I think, Mr. Prime Minister, to be fair to everybody here we have got to be prepared to deal with the specifics and find out what this means and if nobody is prepared to tell me what it means then I find it difficult to say to the local municipal jurisdictions in Saskatchewan, whether it is Regina or in fact whether



it would be Toronto or Vancouver what the relationship is going to be.

So I am prepared to work. I am optimistic, we're working on land claims, we're working on economic education systems, we are working on health systems. We just didn't come here to say, "well we are going to have it in the Constitution without defining it" and I think it is only fair, Mr. Prime Minister, that we do as much as possible now to get on with that process. As you suggest, let's get it in gear and let's get our officials to work. Let's find out -- let's get down to the nitty-gritty. Let's find out exactly what we are talking about and I don't think it is fair to leave the impression that we don't want the movement towards institutions of self-government, that is obviously the case, I have stated it many times so we are prepared to go to work, let's get on with it.

THE CHAIRMAN: Premier Lougheed.

HON. PETER LOUGHEED: I just wanted to make a few brief observations, Mr. Prime Minister. Generally I concur with the remarks just made by the Premier of Saskatchewan about answering those questions that you posed in your document yesterday but I have had some difficulty with this conference in two ways.

First of all as I said last year and I believe again as well now, the real progress, the real help for the people and you have mentioned that on previous occasions yourself, is assuring that

we are moving forward in approving the conditions and the results showing up in the daily lives at the community level and by the pronouncements of high purpose we may incorporate in our Constitution.

I am referring to remarks made by you, Prime Minister, a year ago. That is still my view and when we passed the constitutional amendments in our legislature last June and I entered into the debate, I underlined that in my view that is still where the priority should be and that there should not be false expectations in terms of constitutional change.

Our Ministers from Alberta and myself have been consistent in that communication to members of the native groups within our province, but there has been a second and new element that came out of yesterday as far as I am concerned. As you stated on page 13 of your document yesterday, Prime Minister, and I quote: "The provincial governments are mainly responsible for the Métis. While in the view of the federal government they do not fall within the definition of the word 'Indian' in section 91(24) of the Constitution Act, 1867, the federal government accepts a measure of responsibility for them as disadvantaged peoples. At this conference we must come to grips with the question of the complementary responsibilities of the federal and provincial authorities ...". I am concerned about the developments of yesterday because I said and it did not in my judgment -- I can't recall my statement being challenged last year when I said that I thought it was the provinces' responsibility primarily for the Metis people and in a supportive way for the treaty Indian people in our province and that the reverse responsibility applied for the federal government. It was the way I approached last year's conference and this year's conference. Now we have a position taken by others including the Metis National Council. Mr. Chartier said yesterday afternoon we have to resolve the issue of responsibility for the Metis, whether it is federal or provincial, before

we deal with the issue of self-government and I would say that has to be pretty logical. If we are going to deal with the issue of self-government, we certainly need to know whether the responsibilities are going to flow from the federal government or the provincial government as far as the Metis are concerned. I want to think about a lot of things that arise out of the position now being taken that the Metis people in our province -- the federal government should have primary responsibility towards them. That brings me into my difficulty with Nova Scotia's proposal and their statement of objectives. The fifth objective is and I quote: "The provision of public services for aboriginal peoples comparable to those available to other Canadians." Well, provisions by whom with regard to the Metis? Are they provisions by the federal government? Are they provisions by the provincial government? I think at least as far as Alberta is concerned we have to come to grips with that conclusion. We are in a process within our province and I think we have strong public support within Alberta that we should be taking steps to improve the conditions of the Metis people in our province and we should be responding on a band-by-band basis to reasonable requests made to us in a supporting way from the treaty Indians within our province. That has been our position and that has been called into question here and has been raised clearly in my mind. How can we deal with self-government until we determine where the responsibilities lie as between the



federal and provincial government in these areas.

THE CHAIRMAN: Thank you, Premier Lougheed. I will recognize Mr. Mathias of the AFN. Sorry, Mr. Robinson.

MR. ROD ROBINSON (Assembly of First Nations): The Assembly of First Nations, as you know we have come from different parts of Canada. I come from British Columbia and however I am acting in a capacity as a representative of the Assembly of First Nations. As well in the absence of Mr. James Gosnell I have been assigned the task of being an official spokesman for British Columbia. However, I have other colleagues who will address some of the issues, Mr. Prime Minister. First of all allow me on behalf of British Columbia to commend you for your leadership in initiating the land claims process. We have a lot to be thankful to you for for initiating that process and as a result of that process you have initiated I believe there are some claims in British Columbia that are now being considered for settlement and I understand there are some claims in the Northwest Territories that are now concluding settlement, so we commend you for that.

Mr. Prime Minister, I listened with great interest to some of the statements that have been made here and on page 3 of your statement yesterday -- first of all I am going to be talking, Mr. Prime Minister, on a response to your statement

that we should now take time to define what are we talking about aboriginal title, what is aboriginal title? What are aboriginal rights? Also I will be touching very briefly and I am going to be brief, Mr. Prime Minister, regarding your dissatisfaction with the word "extinguishment." First of all, Mr. Prime Minister, the basic position of the Assembly of First Nations is to entrench, to expressly entrench in the Constitution aboriginal title. As you know, at the last FMC meeting you stated that it was implicit. We agreed in 35 at that time, we agreed with you that 35 is a full box. We also, Mr. Prime Minister, at this time would like to advance some proposals to you that it be explicitly entrenched in the Constitution.

I will now deal with the substantive issue of aboriginal title. As you know, aboriginal title is our ownership and jurisdiction over our territories. Before you people came we had complete sovereignty over all of Canada. We now continue to have sovereignty in British Columbia because there are no treaties that have been reached in the province of British Columbia. We are now knocking on the doors of Canada to get in and we believe, we are very optimistic through the process that we are going through now that we will be admitted to Canada. As I stated, aboriginal title is based on our ownership and jurisdiction of our territories. It is sacred as well as political. Before you people came, before the Europeans came we practised

our own form of government. We had our own laws. We waged wars amongst ourselves in defence of our territories. Our territories were defined and they are still defined today. Now, what is aboriginal rights? Aboriginal rights flow from the title. Our aboriginal rights include hunting, trapping, gathering of food on our land. I can go on and on. Mineral rights, we have those as well. Are the resources on the land belong to us and we know our title still exists because in British Columbia we do not have any treaties. My colleague here will deal with that. Very soon the entire north or the entire part of Canada will be under treaty. British Columbia will stick out like a sore thumb. It is now viewed by many people that if British Columbia sticks out like a sore thumb because the British Columbia government hasn't dealt fairly with the people of British Columbia and, as I say, we are very optimistic, Mr. Prime Minister, that through this process we are going through now we will get British Columbia into the treaty arranging process. As you know, it is very important that the people of Canada know where we come from, why we are doing these things. We are asking Canada and the government to re-affirm our rights in Canada. For 150 years we suffered racism, injustice, discrimination. In fact in 1927, Mr. Prime Minister, our people went through this process of trying to have their rights recognized by the province and the government of Canada at that time in 1927 a law

was passed making it illegal for our people to discuss the matters that we are discussing now, to raise funds to fund people to come together and further to that they outlawed the Potlatch. A lot of our people suffered degradation as a result of this. The Potlatch is not just a ceremony. The Potlatch is a vehicle which my people use to transfer title when a chief dies and title is transferred. The title is asserted, the area, the defined territory is passed on to the next person in line. I am not going to take too much of your time, Mr. Prime Minister.

I will now deal with your concern, your dissatisfaction with the word "extinguishment." We would like to encourage you, Mr. Prime Minister, as a result of your statements to continue to look for a better method. We have some proposals that we would like to make to you as an alternative to extinguishment. I would like to point out an example that no other people are required to extinguish their title. Immigrants like yourselves that are sitting here, the government are immigrants. You were not required to extinguish your title to whatever your place of origin was before you were accepted as a citizen of Canada. You were not expected to do that. Now how can you expect us to accept that? Rather our proposal, Mr. Prime Minister, is this: the word "co-existence" has been used. We agree but we would like to add another word "sharing." Rather than the principle of extinguishment which



is your government policy embodied in that document in all fairness we would like to propose to you for your consideration rather than "extinguishment" the principle of sharing. Let's negotiate that. This, Mr. Prime Minister, is what I would like to say at this time and my colleague, Mr. Joe Mathias will continue.

THE CHAIRMAN: Mr. Mathias.

MR. JOE MATHIAS (Assembly of First Nations): Thank you, Mr. Prime Minister. Fellow delegates and aboriginal peoples, First Ministers of the provincial governments, my name is Chief Joe Mathias, one of the official spokesmen for the B.C. delegation. We are here representing 196 First Nations from British Columbia and not five First Nations as the Premier of British Columbia stated in his opening remarks yesterday.

I would like to bring to your attention a number of issues of great concern as to the purpose and the direction of this constitutional conference, the way it is going and how we should deal with issues before all of Canada and before the eyes of this world. When we look at Section 35(1) there are those officials of government who say that it is an empty box, that we recognize and affirm rights that the courts have interpreted in the past. There are those who say that Section 35(1) may only amount to a Cracker Jack box filled with trinkets and beads. The Assembly of First Nations is approaching these constitutional talks from a position of strength, as demonstrated by the tabling of our constitutional amendments.

We say, Mr. Prime Minister, that Section 35(1) is a full box jam-packed with aboriginal rights, including aboriginal title. We want the public of Canada to understand the position of the First Nations, that aboriginal title is our fundamental position. We will not retreat from that position because from title flows Indian self-government and our jurisdictions over land and resources.

Yesterday, Mr. Prime Minister, you witnessed a neighbouring First Nation for me, the Nuuchah Nulth people, and you saw their opening ceremonies and that comes from the longhouse.

What you witnessed in that opening ceremony is an exercise of sovereignty, songs and traditions that were handed down to them through generations upon generations.

Mr. Prime Minister, they blessed this house that we are in today as they do the longhouse of the west coast.

I would suggest, Mr. Prime Minister, that when we talk about aboriginal title and it is passed in the House that we are looking at Section 35(1) of a full box, a longhouse full of rights.

The concern that we have in British Columbia yesterday in the opening remarks, the Premier of British Columbia had mentioned that what we are saying is that what we should strive for is a re-shaping of attitudes, that is more important than addressing the native aspirations and constitutional change itself. He also mentioned in his opening remarks that in British Columbia they settled with five Indian First Nations on the matter of the B.C. cut-off land question, that the Attorney-General of B.C. announced the transfer to Canada of 12,750 acres of provincial Crown land in resolution of five Indian cut-off land claims in the province of B.C.

I would have to state, because one of those bands and the First Nations in that band is the Squamish First Nation, that what was returned was not provincial Crown land. There are 22 bands involved. What was returned was land that

was reserved prior to 1920 and through the efforts and the assistance of the federal government of Canada and the province of B.C. at that time they in fact passed legislation taking that land out of reserve status without our consent and for 68 years we had a bitter struggle to get those lands returned in our hands. Technically B.C. is saying that they have returned provincial Crown lands, but it was reserve lands prior to being provincial Crown lands. I think the public of Canada should understand that, that we are not looking at a generous province when it comes to aboriginal issues.

Mr. Prime Minister, the Premier of B.C. also mentioned that an Indian band was undertaking a logging operation on provincial Crown land to try to demonstrate to this forum and the Canadian public how generous they are in their treatment of Indian people. I would also point out for the record that that Indian operation competed fairly, made their bid honestly along with other five non-Indian operations and won their point. In speaking of the re-shaping of attitudes as suggested by Premier Bennett, I wonder why the province of B.C. is here today, Mr. Chairman.

On November 25, 1983 the Attorney-General of B.C., Brian Smith, wrote a letter to one of the officials in northern British Columbia in the Terrace area and I would read it into the record, because I think it is important if we are talking about re-shaping attitudes.



It says: "Dear Mrs. Ellis:

Thank you for your letter of November 15th offering me your views on the land claims issue.

As you may know, the province takes the position that there is no legal basis for these claims and that development of the North should in no way be impeded because of them. Nonetheless, Premier Bennett has agreed to participate with other First Ministers in meetings with leaders of aboriginal rights to discuss native issues, including aboriginal rights, treaties and claims. The next of these meetings is to be held in March of 1984.

In the meantime, the province will continue to have observers present at land claims negotiations being conducted by the federal government with some of the bands in the area which you represent."

When we are talking about entrenchment of aboriginal title in the Constitution, what we are saying is that title is already there in Section 35, that Indian government is already there in Section 35. The right to our aboriginal lands is already there in Section 35 and this process, these talks, should be directed towards one aim, to make clear, to make explicitly clear so that there will be no future controversies in the future that aboriginal title is entrenched in the Constitution and that Indian self-government is entrenched in the Constitution. All we are saying is that make it abundantly clear in Section 35 because it is there.

So when we talk about re-shaping

attitudes we have a real problem here, Mr. Prime Minister. When we come across correspondence of First Ministers who will not deal with the real issue of entrenching aboriginal title in the Constitution, we have real problems with the policy of extinguishment. I would put this question through you, Mr. Chairman, to Premier Bill Bennett, why is he here? Is he willing to discuss the entrenchment of Indian self-government and the entrenchment of aboriginal title in the Constitution? Does the British Columbia government recognize aboriginal title in B.C. and does he agree that it has not been extinguished?

Thank you, Mr. Prime Minister, these are my few remarks. It is of some concern to the delegations from British Columbia that we have a Premier sitting around a table not willing to come to grips with our full rights that are in Section 35 of the Constitution. The Assembly of First Nations have tabled their amendments. Our job is to ensure that the process works so that entrenchment comes about. This is not directed -- my question is not directed to the Attorney-General of the province of B.C. but to Premier Bill Bennett.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr. Mathias. All right, I will recognize Mr. House of the Metis National Council, then -- you are not quite finished.

MR. JOE MATHIAS: The other matter that concerns us in British Columbia is the matter of third party alienation which is part and

parcel of the extinguishment policy.

In British Columbia where I come from, Vancouver, we do not accept the fact that provincial land acts and other land legislation by the mere passage of these Acts necessarily and automatically extinguishes the rights of our people, our title and our aboriginal rights. When we come to the question of Indian self-government and jurisdiction, I would turn it over to my colleague Gary Potts from Ontario to complete my remarks and he will complete our remarks, Mr. Chairman, with your permission.

THE CHAIRMAN: I hope it would be brief, because your delegation has already had two spokesmen in the second round, so let's hear a brief intervention and then we will have to move on.

MR. GARY POTTS (Assembly of First Nations): It will be brief, Mr. Prime Minister and I think also clarify the focus of the intent of this constitutional process and we can get into answers and concerns like Premier Devine has expressed earlier on.

It will touch on -- touch the peaks of three areas and in our history present and future. We will be glad to answer any questions Premiers may have as to how these peaks are bridged. We all know that the history -- that Europe is a continent of many nations and what is not generally known in Canada is that North America is also a continent of many nations.

Trade routes existed long before the Europeans came to this land amongst the aboriginal people. A case in point we have proven scientifically that our tribe has been in one place of 4,000 square miles for 5,000 years. How many nations of Europe can show scientifically they occupied that same land for over 5,000 years? Our relationship with the French people was fine. They were concerned mainly with trading. There was no settlement on the interior of Canada. The English was a different situation. They started inhabiting the interior of Canada. It resulted in the Royal Proclamation of 1763 because of concerns that the native people had over the use of traditional aboriginal people's lands by the English settlers. The Royal Proclamation confirmed we wanted to be allies of the British Crown. It also confirmed that the settler government in this country was derived from aboriginal peoples, confirmed that aboriginal peoples hold the original title to Canada.

Further it confirmed we were the original order of government in this country and further remained unmolested and undisturbed in the possession of our lands. In 1793 the Lieutenant Governor J.G. Simcoe of Upper Canada said to the Five Nations of Western Canada for further clarification "We claim not one foot of your land until you sell to us. No King of Great Britain ever claimed absolute sovereignty over any



of your lands or territories that were not fairly sold or bestowed to us by your ancestors. The King's rights with regard to your territories are against the nations of Europe, not you."

In the War of 1812 to show that we were allies of the British 9,000 Indian warriors assisted the English soldiers which numbered around 10,000 to hold back the invading American forces from the United States whose intentions were to take Canada and conquer Canada from the Great Lakes to the Arctic Circle. We prevented that from happening and historians show that without the Indian allies Canada would have fallen and would today be a part of the United States of America.

On March 24th, 1924 the preamble to the agreement between Ontario and Canada clarified that Ontario had no jurisdiction over lands which had yet been the subject of a treaty. In 1867 there were established two orders of settler governments in this country and that did not change the Royal Proclamation of 1763. The huge influx of settlers into the country following that time period were unaware of the honourable historic relationships that had been established between the European peoples and the aboriginal nations of Canada. This led to the suppression of aboriginal peoples and termination policies that were referred to earlier by my colleagues. Today we seek to begin to end that suppression, the Constitution is here. The history

of how it got here has to remain in its proper perspective. We have been patient for over 100 years. Many of our people still feel that we are allies of the Crown, not subjects, as reflected by our participation in two world wars where conscription did not apply to Indian peoples. We seek action which reaffirms, which allows us to have the unsuppressed exercise of our right to self-government based on thousands of years of practice in Canada. The process concerns jurisdiction and ownership. We feel in the future that the focus must be on the aboriginal peoples' jurisdiction and ownership. A chart was passed around earlier that explains our concept to you. Clarification of this will lead to meaningful discussions and the development of governing institutions which reflect the reality of the country and address what are the objectives of the Canadian nation for the next thousand years. Our guideline has been use the land in any way you want but don't use it in any way which denies your descendants the right to use it also. The aboriginal people of Canada have a proven record of caring for this land so that our descendants have a base from which to grow. Canada is recognized internationally as a humanitarian state. Being Canadian is a right of the highest human order, on the highest human scale for humanity there is the world. It is the right to be a French-Canadian. It is the right to be an English-

Canadian. It is the right to be an Italian-Canadian, et cetera. In recognizing that these Canadians and their governments must recognize that we have the right to remain self-governing forever and that cannot be taken away from us. We are willing to enter into discussions on jurisdiction and other matters. Thank you, Mr. Prime Minister, for your patience. We shall be happy to answer any questions of clarification that any of the Premiers might require or yourself might require.

THE CHAIRMAN: Thank you very much. I had recognized Mr. House on the second turn. On the first round I do have the province of British Columbia, Mr. Smith. I wonder if you would proceed to Mr. Smith and then I will recognize you and then I will think of winding up so that we can at least turn to the New Brunswick delegation on the other item. I need your guidance on adjourning. Is 12:30 like yesterday satisfactory? All right. Mr. Smith, the Minister from British Columbia.

HON. BRIAN R.D. SMITH (Attorney General, British Columbia): Thank you, Mr. Prime Minister. It is probably important that British Columbia replies to the implications of the remarks that were made by both Chief Robinson of the Nishga and Chief Mathias of the Squamish Band on aboriginal title because lest any of my colleagues in this room might think this is a British Columbia problem only I would disabuse them of that. The draft amendments that

were introduced here yesterday by the Assembly of First Nations set out amendments for aboriginal title which would be amendments to Section 35 of the Constitutional Act which would provide that the collective and individual rights would include and not be limited to the ownership and jurisdiction of all land and resources within the traditional territories of each First Nation subject only to such ownership where jurisdiction has been acquired with true and formal consent of the First Nations affected. That together with the right of self-government were proposed in that amendment. The Nishga position was very eloquently expressed by Chief Robinson and that is that aboriginal title, they say, in British Columbia and by implication elsewhere in the country, unless by treaty expressly, has not been extinguished and still exists and therefore must be recognized. In British Columbia, Prime Minister, treaties did not extinguish aboriginal title but colonial governments over a period of years dealt with lands that were the subject or are the subject now of aboriginal title assertion and dealt with them as Crown lands and alienated them, set up registry systems and dealt with them as if they were Crown land and the courts of our province have upheld and the decision in Calder was not contra -- that aboriginal title in British Columbia was extinguished and that has been the position that I think every



government in British Columbia has taken and every party has taken when in office.

The question of aboriginal rights though is different and we have been prepared to discuss aboriginal rights and have come here, Prime Minister, in good faith to deal with the questions of self-government and the questions of equality and we are not pessimistic about this conference or about the meetings of Ministers that have taken place. We believe that progress has been made but that we are not in a position to constitutionalize concepts that are now being worked upon but that we would at some later date. I wish that all Ministers here would understand that the concept of aboriginal title that is asserted is not limited to British Columbia but has implications for the whole country, implications which would involve major settlements of land and millions of dollars being paid in compensation. In British Columbia this last week in conjunction with the federal government we completed settlements for cutoff land claims which Chief Robinson referred to and those were done as a moral obligation by Canada and by the province for lands that were once taken from reserves. Indeed in Chief Mathias' own band he received -- his band received land valued at something in the neighbourhood of \$75 million and payments of cash as well, very important land, Ambleside Park in West Vancouver. These are not comprehensive claims but they do

allow, I think, the people of Canada and British Columbia to understand we are talking about major sums of money and major items when we are talking about aboriginal title and a great deal of work, Mr. Prime Minister, has to be done on those subjects before we are in any position to constitutionalize or change definitions or eliminate the word "existing," but British Columbia is prepared to participate in those discussions and are doing so.

THE CHAIRMAN: Thank you, Mr. Smith. Shall I call on Mr. Fred House?

MR. FRED HOUSE (Metis National Council Executive Committee, Ontario): Mr. Chairman, in the spirit of Louis Riel I address you and at the end of my talk I would like Clem to make a summation of the talks. I would like to bring to your attention that back in the 1800's the federal government issued land scrip to the Metis people in the west. This land scrip, the land scrip commission was also followed by the land speculators and in many of these cases the land speculators and the land commission were in bed together because on one hand the commission would issue scrip and on the other hand the land speculators would take the land for a simple fee of dollars or whisky or whatever it may be, something that wasn't worth the land scrip. Anyway the land scrip deal was total chaos and it sort of read to the government of the day under I believe, Sir John A. McDonald prior to 1885 that his government was responsible for the hanging of

our leader Louis Riel and all the land and self-government, the Confederation issue with Manitoba, the provisional government in Manitoba, the provisional government of Saskatchewan were developed by the Metis nation in the west because the Metis nation believed in the development of Canada. They believed to be participants in the development of Canada. Today we still have that same belief. When we talk about a land base and self-government we are stating to you that there are a lot of lands still available throughout the Metis homeland and that these lands could be used by the Metis nations to develop themselves to become self-supporting citizens through the development of those resources, to develop self-government so that we could develop our nation to become contributors to this country instead of being a vast drain on the whole Canadian economy through the welfare programs we live under today.

Today, Mr. Prime Minister, in our country, our people are forced to become stealers, they are forced to try to make a living by becoming criminals in many cases because of the lack of job opportunities, the lack of employment period. When the unemployment cheques run out then of course Welfare is the only place to go and today Welfare is the biggest employer of people in this country, not only native people but all people, and I say that we have to start managing this country in a more reliable manner to where we can start producing, developing people, developing resources, making good trades with other countries so that we as a Metis nation and as Canadian citizens can develop something we can be proud of and our children can be proud of and their children's children.

Now, going back again to the 1800's, Mr. Chairman, when our people fought for this country twice, they paid for the land with their blood twice. They also fought in the World Wars, Mr. Chairman. Now, our people fought for this country and yet we are looked upon as beggars, people who can crawl up to you and ask for a little welfare programs. We are not here for welfare programs. We have lived off them for a number of years and we are prepared to get off them. That is why we are here today, Mr. Chairman, to develop ourselves and our people to become contributors to the country.

We recognize that possibly there will



be a federal election and, Mr. Chairman, possibly you won't be in that election, but I know that the leader of the opposition, Mulroney was out in the backyard here yesterday and he is keeping a close eye on this conference and so are the other opposition leaders in the other parts of this country and so is the Canadian public. Today the Canadian public is looking at this meeting and no doubt they are saying, this meeting would get higher ratings than Dallas, Dynasty and possibly even The Price is Right.

--- Applause

But, Mr. Chairman, I think today here we have to put on a show, not only a show but show the willingness to do something to correct the wrongs of the past. We talked about equality yesterday, but you cannot have equality when you have a part of the aboriginal nation down here and some nations up here that have been recognized through federal legislation over a number of years.

The Metis nation today are prepared to look at the equality question, because if we take a look at 91(24) where we can look at Metis self-identification enumeration, to where we can look at your entrenchment of self-government. I think these are the issues that we are here to deal with and I hope that we don't leave this conference again going home and stating that we did a good job. I am sure that the people looking at us through the television cameras today are making up their minds and stating to themselves that there are these elections

coming up and we know that the native people have not been dealt with fairly and they are prepared to voice their opinions at those polls come the federal or provincial elections and I will strongly urge them and I will certainly join them in the next election that is coming as well, Mr. Chairman.

Thank you, and I would like to turn over to Clem Chartier to sum up some words here.

THE CHAIRMAN: Mr. Chartier?

MR. CLEM CHARTIER: Thank you, Mr. Chairman. Just before I go into it, I want to assure the Alberta delegation that the Metis National Council was not trying to pull something on them with respect to 91(24), federal jurisdiction. We at least flagged the issue last year. We didn't pursue it in any great detail but of course last year was the first opportunity for the Metis to take part in this constitutional process on our own behalf and that was an accomplishment. We didn't push the issues too far last year. We thought we would wait until this year and we have been in that process.

With respect to what we would like to see out of this conference, certainly, Mr. Prime Minister, we would like to see an amendment to the Constitution which would entrench the rights of the aboriginal peoples to self-government. Barring that at the very least for the Metis coming out of this conference we would want to see a federal commitment that you or the federal government will assume its

responsibility for the Metis people. Coupled with that commitment, Mr. Prime Minister, we would want to enter into an enumeration process based on the criteria of self-identification contained in our document tabled yesterday and which Mr. House referred to. We feel it is very important for that to take place as during the course of the year a number of provinces have stated consistently who and how many are you? We have put forth very forcefully who we are and where we live and the how many is just an administrative matter and we would like to enter into that process and get that out of the way so that at the 1985 conference that doesn't crop up again and doesn't crop up over and over again over the next 12 months.

We would also encourage the commitment to establish a sectoral process as addressed in our opening statement to address the jurisdiction of Metis government based on the possible entrenchment of self-government as proposed by Mr. Sinclair, or in the alternative exploring further Metis self-government along with land and resources requisite for a meaningful and a viable Metis self-government, Metis economic viability, including discussions of the right and the needs of our people to continue where desired and it is desired everywhere, a traditional lifestyle of hunting, trapping, fishing and gathering. Basically a right to survive as an aboriginal people. That, Mr. Prime Minister, is the very least that we

would like to see coming out of this conference.

Thank you.

THE CHAIRMAN: Thank you, Mr. Chartier.

I would like to draw the threads together. I have the AFN asking for the floor again, I think on the third round if it is brief and no one else wants to talk -- well I hear Premier Peckford. I think you will have to wait. Do you want to answer British Columbia? Can you do it in two minutes?

MR. GARY POTTS: I can do it in 30 to 60 seconds.

THE CHAIRMAN: That sounds terrible.

MR. GARY POTTS: Mr. Prime Minister, with regard to British Columbia, if that is the position that they are taking then I believe that the British Columbia government is sitting on air between two stools, because to call the case that they speak of, three judges also said that aboriginal title did exist in British Columbia and it still exists there.

The British Columbia government cannot gain title to British Columbia by ignoring the owner of the land, just like anyone in any society cannot move on to another person's land and sit there for a while and say, "Well, I own it now because I am here", without addressing the owner. I mean that is ludicrous.

They try and throw scare tactics out to the Canadian people, money, land is all going to be



gone. It is going to cost us. They do that to prevent the people from demanding that the British Columbia government honour their responsibilities as a government and go to the negotiating table in a responsible manner with the aboriginal peoples of British Columbia.

THE CHAIRMAN: You said you would be 30 seconds.

MR. GARY POTTS: You can't obtain de facto extinguishment with regard to aboriginal peoples. It has to be done by de jure and that de jure was established by the Royal Proclamation and since that time and Section 109 of the provinces in the British North America Act establishes that you have no jurisdiction until there's a treaty made.

The federal government, Mr. Prime Minister, has complete jurisdiction over British Columbia because of 91(24).

THE CHAIRMAN: Over British Columbia and I take it over Newfoundland too.

Premier Peckford, I withdraw that.

I will recognize Premier Peckford and then I will wind up. I think we will have to tell our participants from New Brunswick that we will start with them after the lunch break. Premier Peckford.

HON. BRIAN PECKFORD: Mr. Prime

Minister, I will be very brief. I just want to align myself with the comments that have been made by the Premier of Saskatchewan and the Premier of Alberta and I just don't understand why we can't get down as groups of people in this country and negotiate. I thought that is what this process is all about.

Now, reference has just been made and we have had a few experiences in the courts, Mr. Chairman, and it seems to me that it is up to the political leaders of this country and the leaders of the native groups to sit down and negotiate and to try to put general concepts in a Constitution which will then surely lead to judicial definition which is not the way to go in my view and I think that we are wasting a lot of time going that route and I would very strongly urge that we move the other way. We are prepared as a provincial government to sit down with the Inuit people of Labrador and have been for the last two or three years and negotiate fairly and reasonably and the other native group, the Nishkapi-Montagnais group don't recognize the government of Newfoundland, so we have got real difficulty in negotiating with that group because we are not recognized as a government.

As far as the Inuit of Labrador are concerned, our position has been made clear. for the last two or three years and we are prepared, ready, willing and able to sit down and negotiate the

specifics of an agreement so we know what we are talking about to try to do some things conceptually and put them in the Constitution and then have the judiciary defined for all of us is a move which I am not prepared to entertain at this time, but I think I am with Premier Devine and Premier Lougheed and some of the other people around this table who say, "Let's sit down and talk about the specifics of what these terms mean and let's reasonably as civilized human beings deal squarely and fairly with the issues that at this point in time are general and vague but which I understand mean a lot both to me and to other people and to the native people. . So let's sit down and see what they do mean and let's negotiate as reasonable people." I think that is the kind of progress that we can make. Then once that is done -- then once that is done -- once you know what you are talking about then I think a serious consideration can be given to constitutionalizing but I think that is the approach that has to be taken and not going from the general to the particular, because the particular will not be one that we will be dealing with, it will be the judiciary telling us what the particular is going to be. You know, I think that is the only sensible and reasonable way to go in 1984 and 1985, 1986 and 1987. We are not in 1867. We are not in 1840. We are in 1984 and we have got to deal with ourselves and all of our organizations today and if that seems -- I mean there are all kinds of issues as Premier Devine says that

will arise. I mean the municipalities of our provinces through the federation will have a great deal to say of what structure we mean when we say self-government, what structure do we mean when we say something else and how it is -- how it is to be handled in a specific way.

So as I say, the government of Newfoundland recognizing that there are aboriginal rights in Labrador, the Inuit people, have made our position very, very clear. With the group, the Nishkapi-Montagnais, they do not recognize us as the government of Newfoundland and Labrador and therefore we have some problems trying to negotiate there but you know that is the way I think we have to proceed and I just want to express clearly and unmistakably the position of the government of Newfoundland on this matter. We are prepared and recognize fully and totally recognize that the Inuit people of Labrador do have rights and that we should be sitting down with them and negotiating with them as reasonable people and get on with the job of ensuring that their rights are protected and that they are treated in a fair and reasonable way under the laws of Canada and the laws of the province.

THE CHAIRMAN: Thank you, Premier Peckford. I think that makes my winding up somewhat simpler because Premier Peckford has reminded us as have other speakers who have participated this morning on the part of the provinces, that there is no question here of interrupting negotiations. We are all committed



to them by virtue of the Act of 1982 and last year we showed that we could go further and amend that Act too and continue the process. So those who talk of a political accord I think it should be made clear that they are not saying the question will be set aside.

They are asking to deal with the question without a constitutional amendment at this point. They have not said that there could not be a constitutional amendment in the future, but they argue with, I must say, some persuasion that they would like to know what it means before putting something in the Constitution. As Premier Lougheed pointed out yesterday, we adopted a constitutional amendment last year but we had not left the city but that people said that wasn't what we wanted to say and therefore there was a strong argument against not going too hastily in a binding constitutional amendment. In trying to sum up the positions at the end of this morning's meeting I think it is fair to say they have not basically changed from what the Minister of Justice reported to us at the beginning of the meeting. I guess it is fair to say that most provincial governments, I say most governments because I take it that would mean the territories too, are prepared to proceed with an accord. I say most because I am not clear if that does include every one of the provinces, some of them not having taken up Mr. MacGuigan's point. But I think we have heard quite clearly that the representatives of the four aboriginal peoples would not be satisfied with an accord and presumably they would not want to sign it. I am setting it up so people can think it over during lunch. After lunch I am planning to return

to other subjects, but at the end of the day before we leave we will have to decide what size of consensus we go with. So much for the political accord.

As regards the constitutional accord I think we can count three provinces plus the federal government that would be prepared to go that route, and if I understand well, the four aboriginal groups would be prepared to support that route too. Each of them in saying that they would would like to see some changes to the federal text. At this point I would suggest there would be a choice to make at the end of the day. If there are merely technical amendments and some of the supporting provinces might want to make some too, then obviously there could be a meeting of officials on technical questions that would put a final hand to the constitutional accord and then we could take it from there. I am not sure as Chairman which route we will want to follow at the end of the day, but because the federal position of preparing a constitutional accord is our preferred position and because, as some Premiers said rightly, it has only been in your hands for the last 24 hours, I want to do two things: say that we can take a little bit of time if we go that route to amend it on technicalities but I would say not on substance lest we lose everything and maybe that will persuade some other provinces or territories to come along. I would just want to

repeat very briefly also what Mr. MacGuigan said yesterday in presenting the federal position because you, Premier Devine, have said and I noted your words, on the one hand you are prepared to go to work and deal with specifics. I think that was also the message of Newfoundland and of British Columbia and of Prince Edward Island and Nova Scotia, but you also said, Premier Devine "Tell me what it means before I put something in to the Constitution." I would just repeat very briefly what Mr. MacGuigan said yesterday. It means that we would be dealing with culture and education, we would be dealing with self-government, but we would be dealing with it in a constitutional amendment which would be raised in the same terms as the constitutional amendment we put in the Constitution in 1982 dealing with equalization and regional disparities. The amendment begins with the words "Without altering the legislative authority of Parliament or of the provincial legislatures ..."

"Sous réserve des compétences législatives du Parlement et des législatures et de leurs droits de les exercer."

In other words, this accord would not change anything in Section 91 or 92 and it would not oblige beyond a commitment once again to preserve and enhance culture and language rights and negotiating the right, the content of the right



of self-governing institutions. It is not something that the courts would come down and say this creates new jurisdictions, it solves the question of the Metis and what jurisdiction they fall under. It does not create new rights for the federal or the provincial governments. It does not take away from the rights they have. So in that sense we, in the federal government, have felt that we could go this far and I just want to add personally as something of a constitutional lawyer that I have had the same apprehensions as those mentioned by Premier Devine and others this morning. I have long argued that we shouldn't put things into the Constitution unless we were sure what they meant. I would say that in this particular case I know what they meant. They are a best efforts commitment to, not a constitutional obligation beyond the commitment, to do certain things which would not be justiciable if they were not done, in other words, the Supreme Court could not say "You must do these things beyond once again committed to participating in the negotiations" and so on. The reason we have done that, I admit there is a bit of leap of faith into some unknown about the practical effects of this because it seems to me we have tried the other course for the past hundred and some years. We have tried the non-self-government route. We have tried the Indian Act. We have tried to be fair as we

saw it and we weren't certainly always successful, perhaps even rarely successful, because the results are there for all to see. They are in the statistics I gave in the opening statement yesterday morning. A hundred and some years have not changed the minds of the aboriginal peoples. They are still here saying the same thing and we have been told they will still be here in another hundred years saying the same thing. They have not assimilated. Not too many of them even integrated into Canadian society and I think we have to try the other route. We have to try the other route because the message they have been giving us is that in terms of self-respect they must be given a chance to run their own affairs and self-governing institutions. We have paternalistically tried to dole out benefits to them. We have invited them to join the Canadian society and become equals in every sense. That was the meaning of the 1969 paper. Not assimilation surely. That was never the intention, but integration into the society and their answer has been consistent "We don't want to integrate. We don't want to assimilate obviously, but we don't even want to integrate, anyhow not now. Let us govern ourselves, our communities, our tribes. Let us do it with whatever powers you will be able to give us or delegate to us or transfer to us, whatever the case may be as the negotiations proceed and then having gained that

measure of dignity we will evolve." I don't know whether they would evolve and that is why I say there is a leap of faith. I don't think they know themselves. I would imagine some of them will continue wanting to evolve towards maybe more and more absolute, total sovereignty as I think was the position of the Mohawk Nation this morning. Others may, and I think it was made clear yesterday by the spokesman of the AFN, many want to evolve within the Canadian nation and who knows what will happen? Maybe then they will, having regained their dignity, strength and if we act on the socio-economic suggestions that were made, having regained also the status of reasonable socio-economic equality within Canada they may take other steps. They may want to integrate, never assimilate, but integrate as I believe the Inuit are telling us in the Eastern Arctic. They are prepared to be a government like any other government. They have got the territory. There are enough of them to make sure they can elect their own leaders, run their own councils and that may be the route for the others or it may be that they will join into the political processes of federal and provincial and municipal politics. We don't know, but let us give them a chance to regain this sense of dignity from governing themselves. After all the provinces should understand that. That is what each of them said. I am speaking of those beyond the four founding

provinces when they said "You know, we are ready now to govern ourselves" and after some decades they were ready also to take over the running of natural resources. So let us consider that.

I insist it does not -- this accord does not solve the problem where the Metis live and we will have to set up before we adjourn today a mechanism for examining that further and insofar as equality rights we are prepared to, all of us I think, to bring in a constitutional amendment if necessary which will for greater surety make men and women equal under the Constitution and under the law, but will not solve the other problem of equality of Metis with Indians and Inuit. It will not either solve the problem that was brought up of existing rights versus non-existing rights. These are problems we will have to continue to discuss.

We don't pretend they are solved by our proposal. I feel that if there is an attempt to make them solvable by our proposal we will lose some of the few who are now supporting it. So that is the position as I see it now. Maybe over lunch we can think over the wisdom of those two courses and at the end of the day as Chairman I will have to see if the consensus has moved in one direction or another and call whatever results I see, but I would propose after lunch to begin then again with the question of sexual equality and begin hearing from the province of New Brunswick. The province of Québec has indicated they wanted to participate in that debate so I will recognize them second.



I will attempt and hope successfully to prevent the other one, the Metis question from being smuggled in under that item. I would like to deal with the sexual equality first and then we can, if that is the will of the conference, to return to the specific question of the Metis, because I do feel that we can't leave here today leaving the question up in the air. I think Premier Lougheed with his usual consistency stated well the results as I saw them at the last conference. It was pointed out by the Metis National Council that they had raised the subject, but certainly it wasn't referred to us as a specific area of discussion over the past 12 months.

I would argue that it should be over the next 12 months, but it is completely unrealistic and I think the numbers that I tested yesterday proved it, to think that we will before the end of the day do anything more than begin a discussion process and an important one in that area.

So if we follow yesterday's -- Mr. Sanderson, can I recognize you after lunch, or would you rather speak to empty stomachs and distant ears?

MR. SOL SANDERSON: (Assembly of First Nations): Yes, Mr. Prime Minister, that was my point. I was going to ask that you recognize us to be able to address those points further that you just made after lunch.

THE CHAIRMAN: Very well, I will put you on the short list so then we would adjourn until 2:15, an hour and a half like yesterday.

--- Luncheon adjournment at 12:45 p.m.



FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

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(unrevised and unofficial)

Afternoon Session of  
March 9, 1984

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance de l'après-midi  
du 9 mars 1984





--- Upon resuming at 2:35 p.m.

THE CHAIRMAN: I think we had agreed that when we reconvened we would begin with the New Brunswick delegation followed by the Québec delegation on the subject of equality of men and women and I will try to steer the subject on that. I know already that you and you and others are going to try and squeeze the Metis in with the women. I understand that, but as the Chairman I will recognize people who want to deal with that first and I promise I will come back to the equality between aboriginal peoples. First I will call on Mrs. Lovelace.

MRS. SANDRA LOVELACE (Native of New Brunswick):

Mr. Prime Minister and the First Nations, aboriginal leaders, ladies and gentlemen, for the benefit of those who understand my language which is Malecite I would like a woman, Mavis Goeres, who is not regarded as an Indian woman by the government of Canada to translate the words which I have spoken from my heart.

MS. MAVIS GOERES (New Brunswick Native Indian Women's Council): (Speaking Native Language)

MRS. SANDRA LOVELACE: I would like to thank Mavis Goeres for saying this in my native language and she is not considered an Indian. I am going to say it right now. I am going to make my presentation short and to the point because the way things are going for native women it looks like I might be back here again next year. I have been

listening to the speeches and comments and I do not like what I have been hearing. Every time sexual equality is mentioned it is always pushed to the side or our leaders want to move on to another issue. Everyone wants collective rights except for native women's rights. The non-status issue could be resolved today by ending this injustice done to native women, by immediate reinstatement and entrenching sexual equality in the constitution. I am not against any native group's rights, but this issue should be dealt with once and for all. I fully support Indian self-governments and once sexual equality is achieved we can work hand in hand in unity. I have two daughters and I pray to the Great Spirit that they will never know what it is like to be stripped of their birthrights. Thank you, Premier Hatfield, for making this opportunity possible.

THE CHAIRMAN: Thank you, Mr. Hatfield. Could I suggest for our general conduct that we do have translation provisions and unless it is a very, very short statement it would be useful if people who want to speak in their native tongue provide for translations so it would shorten the discussion, just for the future?

HON. RICHARD HATFIELD: Mr. Prime Minister, when I said yesterday I could not, with any heart, discuss self-government unless this issue was resolved to the satisfaction of the people who raised it, women like Sandra, who raised it last year you will recall

and I thought and she believed and I believed-- to remove the doubt that some Indian women in this country have and when that issue fell through the cracks yesterday I sensed that something more important happened and something more important did happen. All of a sudden we are deciding constitutional questions on the basis of counting heads and you made it very clear that unless we have seven men agreeing to discuss this issue or any other issue those issues are not going to get discussed. That is not acceptable. We had a meeting of Ministers, we got a report. It was six and three, five and four. We are talking about political determination, political will here and if we can't move on anything, if we make a mistake and the people who raised this issue said we made a mistake and I admit I made a mistake in signing that accord and I have said that. I don't apologize for that, but if we can't correct the mistake, if we can't allay the fears that I believe have been legitimately raised then I think we have to ask ourselves are we really sincere about anything? When we started on this course to deal with aboriginal rights I can't believe there is anyone who didn't know that we would go in the direction we have been going, who didn't know that the aboriginal peoples were going to ask for self-government. I made a statement in Toronto at the Ministers' meeting, aboriginal peoples conference, and I thought it would focus the



attention of the conference and that it might accomplish something, but the more I thought about it the more I thought it wasn't worth it, that we had to get down -- I had at least -- I had to have a commitment, I had to have a prod, I had to have some kind of a catalyst. I have always found that to be essential in politics. That is why I make political promises. I try to keep them. That is why I make commitments and that is what it was about when we got the Constitution. I want to remind you, Mr. Chairman, if you had counted heads two or three years ago we wouldn't be here discussing the Constitution of Canada. If we didn't have seven then -- we debated and argued and fought and I say to the aboriginal peoples I don't think you are going to win anything here. I don't think the will is here. You have got to do what some of us did in the 1970's. You have got to go to the people and get the support of the people and explain to them. It would certainly help if you could state, if the various groups could speak with one voice. It would help the whole cause. I came out in favour of self-government. I don't know what it means. I want to make it very clear I don't know what it means. I didn't intend to know what it means because I have listened to what the aboriginal people have said and what they have said is that they have rights and I believe they do. They have convinced me. Are we going to act on it or aren't we? I can explain to the people who confront me as far as

the First Nations Assembly is concerned and I can even pass the buck and make excuses as far as the Native Council is concerned.

Mr. Chairman, when someone asks me why we don't give the Inuit self-government, what am I going to answer? What possible excuse do we have? They have taken our challenge. They have been fair, they have been sound. They have been sincere and where are they? Trapped between the controversy between the First Ministers and the other aboriginal peoples. That can't go on any longer and it was when the co-Chairman of the Inuit people came to see me that I finally decided that I am coming out for self-government. I am going to go beyond what I said in Toronto because that wasn't good enough. That wasn't far enough. Either we are going to recognize or we are not. There does not seem to be any evidence here and I want to say that that doesn't cause me any concern or despair. Counting heads, that does. I have never liked it. I am against plebiscites, I am against polls. I have never liked them. I am not against elections. That is different. You had a head count in Manitoba. Did you like the outcome of that? You can't put minority rights up for decision by the majority. Surely we believe that. (Applause)

I feel very, very strongly and I am not discouraged. It is no secret that I love the constitutional debate, that I love to get involved and I love to listen to what is being said and I do

listen. I can go on listening, but there are people out there who really feel they are being denied something and I think they are right. I can wait, but I don't think they can wait and I don't think they should be made to wait. I don't think the Inuit should be made to wait. I don't think any of the aboriginal people should be made to wait and I don't think we can defend asking them to wait by saying we don't know and we don't understand. That is what we are here for, to discuss self-government for the Inuit people, for all the aboriginal peoples. Inuit people have been very specific if anyone listens. They have been very specific as to what they have meant and they have been willing to compromise. They have acted admirably. I am not very proud of the way the First Ministers have responded. (Applause)

I can't really,-- as I said, it is the truth, that is all. I can't discuss self-government with any conviction or any heart when I know we are not going anywhere. We are just not going anywhere. The will just isn't there yet and I say it wasn't there in 1971 either. It took a long time to get the Constitution Act. We got it. It may take you a long time, but don't surrender to Parliament because that isn't what you are entitled to, some kind of legislative protection and it wasn't good enough for the French-speaking and English-speaking people of New Brunswick. We wanted it in the Constitution and we got it in the Constitution. Don't surrender to Parliament. Keep

fighting and settle for nothing less. (Applause)

THE CHAIRMAN: What is the point?  
What do you want me to do? Adjourn?

HON. RICHARD HATFIELD: No. But you did raise expectation and hope that the equality clause would be clarified to use your word if it needed to be clarified and then because you didn't get the support of seven men you dropped it. That is not good enough. That is not what I meant when I said I hope the ...

THE CHAIRMAN: What do you mean by seven men? Seven heads of elected governments, the number that is required in the Constitution that you and I accepted.

HON. RICHARD HATFIELD: No.

THE CHAIRMAN: No?

HON. RICHARD HATFIELD: No. We don't amend the Constitution here. We amend it in our legislatures and our Parliament.

THE CHAIRMAN: But the people here are not entitled to speak ...

HON. RICHARD HATFIELD: Sure they are entitled to speak but your question was how many people want to have a meeting.

THE CHAIRMAN: With respect that is not the way I asked the question. The question was I think we all want sexual equality. You poll all the members here -- you don't like polls but I have seen it happen. No Premier here and certainly not the Prime Minister of Canada is opposing sexual



equality. The argument yesterday was did last year's amendment provide sexual equality and the opinions I got yesterday were that it did. That is also our opinion. I have said at the outset that we are prepared to go further and for greater certainty look at other amendments.

HON. RICHARD HATFIELD: We will stick with that, but...

THE CHAIRMAN: In order to get another amendment, Mr. Hatfield you know that you need at least seven provinces representing at least 50 per cent of the population.

HON. RICHARD HATFIELD: I know that and you are not going to get that. If seven don't agree with it then you drop it.

THE CHAIRMAN: I am a little bit chagrined as Chairman that you think I have given up since I think nine o'clock or yesterday afternoon we have said we will come to this item but as Chairman, I have to take the general subjects first which I understood was self-government and now we are dealing with this.

I think it was useful yesterday to get a first round of statements but I certainly take offence if the implication is that somehow we don't want equality between the sexes. You know that is what we put in the Charter in the first place and I am sure that is what every Premier here intended when we passed the Charter

Now I think you are giving argument to those Premiers who said "For God's sake let's not make another constitutional amendment. We made one last year." and you are telling us you changed your mind that evening or that morning. We didn't. We put a lot of work into it and we think it is good and we didn't change our minds the next day but you know if we are going to change our minds tomorrow I would argue let's

throw away the idea that we are going to come out with any constitutional accord at the end of the day.

HON. RICHARD HATFIELD: Mr.

Chairman, I think that what the Constitution is about is not a legal opinion. Say to the women of Canada that you have a legal opinion that their rights are protected equally as is stated in Section 28 so that they don't need to have -- we don't need to have Section 28. I can get a legal opinion that will say that, but it wasn't good enough for the women of Canada, was it, they insisted on it being there and they got it there. We put it there for I think the same reason that I am asking that this be cleared up, that the fear be allied.

THE CHAIRMAN: You know, it seems to me that yesterday the discussion should have shown to you that the reason why last year's amendment is being opened isn't just in the name of the women of Canada, it is to put in of other things, to raise the question of existing ---

HON. RICHARD HATFIELD: I said Section 28. The reason that this matter of sexual equality is being brought up by the native women is that they are concerned, worried, afraid and that is what a constitution is about I think.

THE CHAIRMAN: Well, much of my career I didn't count heads, I just forged ahead but you are asking me now to continue.

HON. RICHARD HATFIELD: And fight.

THE CHAIRMAN: It is hard not  
to be depicted as confrontational. Mr. Lévesque?  
Rather, madame Courtois.



M. RENE LEVESQUE (Premier ministre):

Madame Courtois, qui est présidente de l'Association des femmes autochtones et qui nous ramènerait au sujet qui était invoqué au début, avant cet échange très intéressant qu'il y a eu entre le premier ministre fédéral et monsieur Hatfield. C'est malheureux qu'il n'y ait pas eu des échanges de ce genre-là en 1981 sur un autre sujet, mais enfin...

LE PRESIDENT: Vous n'aviez qu'à parler!

M. RENE LEVESQUE: On se résignera! On n'avait pas été avertis de l'autre côté de la rivière!

LE PRESIDENT: — —

Vos grands amis ne vous ont pas avertis, ne vous en prenez pas à moi.

M. RENE LEVESQUE: Ne me faites pas parler.

LE PRESIDENT: Madame Courtois.

BIBIANE COURTOIS (Présidente de l'Association des femmes autochtones): Monsieur le premier ministre, messieurs les premiers ministres des provinces, mes frères, mes soeurs.

J'aurai un court exposé et, si vous le permettez, je céderai ma place à madame Mary Two-Axe Early qui le complétera.

Les femmes autochtones du Québec supportent la clause d'égalité originale, soit celle que nous avons présentée lors de la première conférence des Premiers ministres en mars 1983.

La clause que nous avons présentée était la suivante: indépendamment de toute autre disposition contenue dans cette Loi, les droits des peuples autochtones sont garantis également aux personnes mâles et femelles. Lorsque nous avons quitté la conférence des Premiers ministres en 1983, nous étions sous l'impression que notre clause d'égalité était enchâssée telle que nous l'avions proposée mais, lorsque nous avons reçu le texte officiel de l'accord, nous avons constaté qu'il y avait une erreur.

Nous n'entrerons pas dans les détails sur le comment et le pourquoi d'une telle situation mais nous voudrions préciser les raisons qui motivent notre intervention à cette conférence des Premiers ministres.

Le fait est que nous voyons la clause d'égalité actuelle comme en étant une dont l'interprétation n'est pas claire pour les avocats, encore moins pour les gens ordinaires pour qui elle a été faite.

Si vous supportez la clause d'égalité, alors enchâissez-là dans la Constitution clairement et distinctement.

Nous désirons également que les droits à l'égalité soient inscrits à l'article 35, partie II, portant sur le droit des peuples autochtones du Canada.

Pour terminer, j'aimerais ajouter que les femmes autochtones ressentent l'urgence d'obtenir une totale égalité due à notre situation historique où on nous oblige à vivre avec vos lois discriminatoires, telle la Loi sur les Indiens.

Nous exigeons que cette situation soit réglée définitivement aujourd'hui et pour le futur. Merci. Madame Two-Axe Early.

— —

MRS. MARY TWO-AXE EARLY (President of Equal Rights for Indian Women): Yes, Mr. Prime Minister, the reason I am sitting here today is because equality rights have to be entrenched in the Canadian Constitution so that discrimination against women by any government is stopped once and for all. I have fought a long and hard battle for the rights of Indian women. Yesterday I believed that our time had come to enter into the dialogue created here, but yesterday's session ended with nothing gained for us women and I believe that you men were filibustering yesterday afternoon to prevent the issue of male and female equality from being discussed. I feel both sad and angry but not surprised. We women have walked a long path of broken promises and we will not give up. We know that the good wishes of so many fair-minded Canadians support us. We have dreamed of Indian unity within the Canadian unity and we will hold onto that dream. We fight not only for our rightful equal place beside our Indian brothers, we fight against racism, poverty, neglect, sexism and despair. Our cause will not be lost here today.

We are grateful that our Premier recognizes us as native women and not as non-status women.

Thank you.

THE CHAIRMAN: I wonder if it wouldn't be opportune to ask the Minister of Justice to deal with the legality or rather the legal significance of what we did and what others are attempting to ask us



to do. I only resisted doing that most of yesterday but we are really, I believe, as Mrs. Lovelace said, assuming that some lawyers will say one thing and other lawyers will say another and I would like you to understand at least the federal position which I believe is probably shared by most of those who in good faith negotiated and signed yet another amendment last year on sexual equality and I think, Mark, if you will try and explain that briefly it might at least dissipate the kind of suspicions which seem to be floating around that some of us have acted in bad faith last year or that we are acting in bad faith this year, because we don't see the need for certain types of changes. Mr. MacGuigan.

HON. MARK MacGUIGAN: Mr. Prime Minister, I will be glad to do that and I will try to do it as non-technically as I can, but I will have to refer to some sections of the Charter.

Section 15 is the equality clause of the Charter. It is not yet in effect. It will be in effect on April 17th of next year. It is our belief that Section 15 of the Charter strengthened by Section 28 which provides that notwithstanding anything in the Charter the Rights and freedoms guaranteed in it are guaranteed equally to male and female persons, that those two clauses together take care of every possible situation where this question could arise in Canada.

There are some who are concerned that because of the grants, the guarantees in Section

25, the section dealing with aboriginal rights and freedoms, that this -- that there might be something which escapes the purview of Sections 15 and 28 together. That is not our legal view, but we are not standing on our legal view. We offered yesterday in the document that the Prime Minister tabled to proceed with an amendment to Section 25 to clarify that it referred to males and females in all circumstances. The words you have are that nothing in that section, that is 25, abrogates or derogates from the guarantees of equality with respect to male and female persons under Section 28 of the Charter.

There is the possibility of another lacunae, another gap, another inadequacy as a result of the amendment that we adopted last year, which was to Section 35. That guarantee of sexual equality which will become the new subsection 4 of Section 35 provides that the aboriginal and treaty rights referred to in Section 35 are guaranteed equally to male and female persons. That again is pretty broad but the argument has been made that there may be some other rights of native peoples beyond aboriginal and treaty rights which might exist and where this equality would not exist. I am therefore prepared at this time especially since most of you this morning in our meeting of ministers wanted to make any amendment to Section 35 rather than Section 25, I am prepared to propose an amendment to Section 35 which I will now have distributed and that can be done any time. It is very

simple, it would say this, it would be a subsection (5) in 35 following the subsection (4) that we added last year. It would say that "The guarantee under subsection (4) applies in respect of all rights of the aboriginal peoples" in respect of all rights of aboriginal peoples. It doesn't specify what those rights are, but it says if there are any rights beyond those in 35(4) that the guarantee of sexual equality applies to those too.

Now, we have no problem with that kind of formula and it completely guarantees sexual equality. What it does not do is -- it doesn't achieve the other objective which I believe the NCC was trying to achieve in proposing in other words last year. The NCC made it clear in their opening statement yesterday that they wanted to provide not only for sexual equality, but they also wanted to provide for equality among the native groups. Now, whether or not this is desirable is not to be argued here, but it is a much bigger argument and I don't think it should be done under cover of doing something for sexual equality and if we were to adopt the words that were suggested by the NCC last year, it could have the effect of achieving their other purpose, but then the rest of us would not be knowing what we were buying into and it wouldn't protect sexual equality any more. It might possibly achieve something else at the same time and we wouldn't know what that would be and if you look at the two classes side by side, you can see the difference in the wording. In the wording that was proposed last year by the NCC, in addition to the words "aboriginal" and "treaty rights" it said

"and other rights and freedoms of the aboriginal people of Canada are guaranteed equally."

Well, that may not seem like a very large difference, but the implication of that is that there are other rights which are guaranteed and guaranteed in not just to males and females, but guaranteed as among the aboriginal groups. It would achieve perhaps the NCC's second purpose, but this is a debate about sexual equality and we are prepared and we offer any one of either two formulae, either of which we believe will completely protect against any questions of sexual equality and if necessary we could go with both of them, an amendment to Section 25 and an amendment to Section 35, because that would rule out any possible doubt anywhere under any document in the Constitution that there would not be full sexual equality.



THE CHAIRMAN: Thank you, Mr. MacGuigan. Does anybody else want to speak on the subject of sexual equality? Mr. Penner.

HON. ROLAND PENNER: Thank you, Mr. Chairman. First of all very briefly there have been comments made, quite critical, of the provinces with respect to their attitude on this issue. Manitoba made it quite clear in the role you took yesterday and in the Ministers' meeting this morning that it supports an amendment on the equality rights issue. We want to hivy ourselves off from that anonymous group of sexist governments if there are such and make our position perfectly clear. Having said that, we feel that there is really, despite the very learned dissertation of my good friend Mark MacGuigan, not really that much of a difference between, for example, the ICNI proposal and the proposal tabled by the federal government but I would like to hear the ICNI on that. In any event, the point I want to make is, and for Premier Hatfield as well, we support a text that will clarify. We don't think we ought to be hung up around the table that long on commas and terminology where there is an expressed will as I now hope there will be, to clarify what was perceived as an ambiguity and may well have been an ambiguity. Let's agree on one text or another. If we can't quite, let's send the officials into a room and they should be able to come back, in my judgment, in half an

hour with a text.

THE CHAIRMAN: Premier Davis.

HON. WILLIAM G. DAVIS: After consultation with Donna our opening statement yesterday made it quite clear that I don't want to upset the Premier of Saskatchewan by suggesting that we want to be all things to all people, but we do want to clear up this issue. I think there would be greater satisfaction on the part of the aboriginal women in our province if this more definitive statement was made. It is not 100 per cent Donna tells me but it is much closer than it was and you would be delighted with it.

THE CHAIRMAN: It is not a hundred per cent but we are going to run into the same problem again.

HON. WILLIAM G. DAVIS: I think I am safe in saying that your group would accept this, Mr. Prime Minister.

THE CHAIRMAN: For the time being.  
(Laughter)

HON. WILLIAM G. DAVIS: It all depends on one's definition of "time being."

THE CHAIRMAN: Until tomorrow?

HON. WILLIAM G. DAVIS: Longer than that. Donna, would you like to speak?

MS. DONNA PHILLIPS (Ontario Native Women's Association): I guess we just quickly glanced at the suggested Section 35(5) and it seems not to be too bad.

HON. WILLIAM G. DAVIS: Can you

rephrase that for the Prime Minister? Say it is better than it was.

MS. DONNA PHILLIPS: It is better than it was.

HON. WILLIAM G. DAVIS: And you won't be after him tomorrow.

MS. DONNA PHILLIPS: If it had been done last year we wouldn't be after him today.

(Applause) We just felt that the federal government and some of the provincial governments didn't see fit to guarantee absolute equality for all our people. As peoples of our nations it is our duty to tell you and to tell the Canadian public that no one should have to live in the discrimination we have lived in over the last, I don't know how many, years now, but it is my duty and my responsibility to my children and my grandchildren we feel that it is our responsibility to tell you that we need equality for all our people and that includes my grandson. I think that in further debates when our leaders are talking about equality in a different way then those things have to be considered too.

THE CHAIRMAN: Thank you, Donna. I have Premier Bennett and I will go around. I would just say that in your own minds maybe we should give consideration to Mr. Penner's suggestion of having the Ministers meet in another room and try and arrive at a legal expression of what we all want. Let's take a few more delegations and make sure we know what we really want. Otherwise the Ministers

will not have much guidance up there. Premier Bennett.

HON. W.R. BENNETT: I think the public, Prime Minister, are getting some idea of the complexities of dealing with the Constitution. We know what we want. We knew what we wanted last year which was to bring equality between men and women. Every Premier and every delegation in this room were here last year and made that determination. I guess what happens to us is what frustrates most people in this country most of the time, trying to get what they want done through the legal mumbo-jumbo of lawyers and I must say being one of the very few people that isn't a lawyer in this room that I share that frustration. But we have had officials last year and lawyers, consultants to every delegation, many lawyers and constitutional experts we bring giving us their assurance that subsection (4) gave equality to men and women. To this date that section has not been proclaimed nor has it been tested. It has always been my position that with the advice we had that we had provided this equality and surely I would be the first to go back to the lawyers again. Any time what we set out to do was challenged then it would be interesting to see who would challenge that equality, but given that, Prime Minister, I would be the first to have an extraordinary meeting to make the amendment to strengthen it and make sure no one challenged it again. We are always willing, should we have a definite legal opinion that suggests that this does not suffice, all of the



opinions we have achieved have suggested that legally and here again as a Premier and a government who are the captives of our lawyers and advisers have been advised what we have done is correct and therefore we are open to any suggestion for continuing work over the next year, but quite frankly I believed we had done the job in good spirit. It offends me to hear some suggest that because we thought we had done the job last year that somehow the governments that had that spirit then and did the job could be even on an offhand statement categorized as sexist. That is not correct. Eleven First Ministers were concerned about equality and we did make that amendment I would not want that to go unsaid or any suggestion that we felt otherwise unchallenged. I want the people of Canada to know the frustrations we feel when we get in a room full of lawyers as of today and spend our time trying to dot I's and cross T's when I thought we had done the job. If you want to send the lawyers out again I would be quite willing to send as many as I can find. In fact I will do the public a favour. We will get all the lawyers in this country and put them in a room and perhaps then we could get down to business.

HON. WILLIAM G. DAVIS: There wouldn't be many left around the table.

HON. W. R. BENNETT: Just real people left Mr. Davis.

THE CHAIRMAN: It is so unusual, Premier Bennett, I say I have to share your frustrations somewhat. It may not happen again, but ...

HON. W. R. BENNETT: You had to wait until you resigned.

THE CHAIRMAN: Premier Lougheed.

HON. PETER LOUGHEED: Prime Minister, just a couple of words about this subject. Last year there wasn't any doubt in my mind. I thought everybody around this table very quickly accepted the view which I thought I debated in the legislature when we presented our motion that we had dealt with the matter by way of constitutional amendment. We were clear in our purpose and the aboriginal rights are guaranteed equally to female and male persons and that was what we were doing. Two observations with respect to the Premier of British Columbia. I think the reason we get into the problem is the nature of the process and I think the nature of the process is to a degree even being compounded right now and that is the idea that at last minutes in meetings you bring forward suggested amendments to the Constitution of Canada and you just open up a repetition of what we did last year and apparently some feel we did it in a way that was inadequate. I think that process is not affected and I really believe that we should commit ourselves

in the future when we are talking about legal constitutional amendments they should not be dealt with at the eleventh hour but should be effectively discussed at the many meetings in preparation for a conference of this nature.

I would like to make it clear, Prime Minister, if we are wrong in our legal opinion and there is a successful challenge of that position I would concur completely with Premier Bennett. Call an extraordinary meeting, it would probably be over in an hour. We pass an amendment and we deal with the matter. I don't think the successful challenge would be there but if it occurred we should move immediately and forthwith to remedy it.

THE CHAIRMAN: Premier Bennett said he didn't see who would have the nerve to challenge. I would agree with him but if someone did and even the judges had the nerve to decide against it I don't see any elected politician anywhere that would say "I am not going to stand for equality of women," very few anyhow. I wonder if I can complicate this a little more by saying that, almost paraphrasing Premier Hatfield, ten or 11 men deciding for women. We are as of now ten or 11 white leaders deciding a very grave issue which we know exists and let's not fool ourselves as to how the Indian people themselves want to solve this. Now I certainly am not passing the buck and I am not trying to say

that historically this is what they wanted. It was a white man's law, not their law, but they are living with a hundred years of that white man's law and we are now -- they have told me this and I am sure they have told each of you this -- that we are forcing the pace on them in a way which they are not all that happy with. I have heard them say and all of us -- most of us are in favour of self-governing institutions -- they said "Okay, give us those self-governing institutions, Premier Hatfield and Prime Minister Trudeau, and we will proceed towards sexual equality." We have to make up our minds on that too, how fast we go. In my speech yesterday I indicated, I am not sure if I did it to the satisfaction either of the women or of the natives, but I indicated that we should move in sync with, in synchronization with these two reforms, but inevitably one is going to, I suppose, pass in time before the other and I must point out to all of you I know the AFN realizes it and I am not sure if all the women in Canada realize it, all those who are asking for this change in the Indian Act. When we moved to abolish Section 12(1)(b) we will say that native status cannot be lost by marriage. That will hopefully deal with the Lovelace case in the future.



We will try to correct some of the past too, but we will also say that Indian status cannot be acquired by marriage, so that would mean that Indian women who married white men would not lose their Indianness, but white women who would marry Indian men would not become Indians in terms of the Indian Act, that is sexual equality. But it sure puts, I won't say the cat among the pigeons, you have to be careful of these metaphors, it sure is a whole new deal for the Indian people because traditionally when an Indian married a white woman and had children the white woman moved on the reserve if she wanted and acquired status. Now, by a stroke of the pen because we are being pressured by a lot of women in Canada, we are moving and we said so in the Speech from the Throne and I said so yesterday, we are going to bring in sexual equality but you know in fairness to the Indian people we are again white men and a heck of a lot of white women out there who have been supporting their Indian sisters are really acting a little bit paternalistically, telling them again what is good for them and I don't like it too much because as between the women of Canada and the Indians of Canada, can I use this term "disadvantaged", Mr. Sinclair, in a sense they are discriminated against. Who do you choose to side with, and I know I can't count heads, Premier Hatfield but ---

HON. RICHARD HATFIELD: It wasn't the Premier of New Brunswick or the Premier of somewhere, it was a native woman who raised it last

year and doesn't everyone agree with that? It had a lot of support. All of the native women all over Canada support or the Native Women's Council -- all I did was say okay, I am convinced. I wouldn't know whether it was right or wrong. I didn't say it was bad faith or whatever, I said we made a mistake.

THE CHAIRMAN: Did I ask you to say ---

HON. RICHARD HATFIELD: Who tells me that we made a mistake, the native women tell me we made a mistake.

THE CHAIRMAN: So you are saying that it is right and just that henceforth the Indian man who marries a white woman will not be able to bring her into the tribe and into the status. You are deciding that for the Indians.

HON. RICHARD HATFIELD: No, I am not deciding it.

THE CHAIRMAN: You are not?

HON. RICHARD HATFIELD: No I am not.

THE CHAIRMAN: Then you are passing the buck. You have to decide if you want to amend the Indian Act as a member of your delegation just asked us 15 minutes ago.

HON. RICHARD HATFIELD: I am not going to argue that.

THE CHAIRMAN: Of course you are not. Yes, Mary Simon.

MS. MARY SIMON (President, Makivik Corporation): Thank you, Mr. Chairman. I would just like to make a brief comment before I respond to the proposal. I hear all of these issues being talked about and people often don't think as Inuit we get affected by these things but I could tell you a very sad story about my own mother who supposedly was not affected by the Indian Act but she was certainly discriminated against and thank goodness because of the James Bay and Northern Quebec Agreement, I have my status back.

You know I get really concerned when I listen to all of this -- all of this rhetoric that goes on around the table and you know right now I am very emotional because I don't know -- I don't know what we are trying to do right now. The equality issue is going to be the issue of the afternoon and at the end of the conference everybody is going to shake their head and they are going to say, "Well we spent away too much time on the equality clause" and yet we are talking about a fundamental right.

I really don't see how we can be respected in this country if we can't even deal with that issue.

I would propose that Mr. Penner's recommendation that we go back and review the proposal be accepted and we will come back and give our response.

THE CHAIRMAN: Yes, we said -- I said yesterday, Mrs. Simon, that we would abolish Section 12(1)(b). I am sorry I spelled out some

sociological and historical consequences of it but we can't hide them. I wish -- I wish you and your sisters would take it out of your head that somehow we are deliberately trying to frustrate the concept of equality, at least in the law everybody who you have heard here has assured you we are not. In a sense you are equal when you think you are equal. If you think you are an equal the law won't change much. Mrs. Simon?

MS. MARY SIMON: Mr. Prime Minister, I consider myself an equal. I am an aboriginal representative that represents both male and female persons in northern Quebec and I have always tried to be unbiased towards who I represent because I feel that as people we have one interest and that is our collective and individual rights. All I am saying here is that as someone who represents both sides I would like to see the equality clause once and for all settled, because there is this uncertainty that we keep presenting to you and at the same time you are saying that you would go along with an additional guarantee that it is clear and at the same time we can't seem to settle it.

It is now 3:35 and I don't see how we can go on much longer with this.

THE CHAIRMAN: I had one delegate from the NCC and then Premier Devine.

MR. DWIGHT A. DOREY (Vice President, Native Council of Canada): Mr. Chairman, my name is Dwight Dorey, Vice Chairman of the NCC and I would like to ask Marilyn Kane, a representative from the Native Women's Association to address this issue, but



I would also like to make a brief comment following her statement.

MS. MARILYN KANE (Vice President, Native Women's Association of Canada): Mr. Chairman, I just wish to reiterate what Mary Simon has just said and, I suppose, add that you and your people seem to be full of surprises, some more pleasant than others.

We have been surprised now with this latest proposed amendment and I too would like that we make some sort of a decision with respect to Mr. Penner's recommendation that the people go back and take a look at this because we do not want to have a repeat as others have said of last year.

Thank you.

MR. DWIGHT A. DOREY:

Mr. Chairman, the other point that I want to add with respect to the opening statement of the NCC and of course you referred to it yourself is in terms of equality. At the present moment we are only dealing with one segment of the equality issue. The NCC wants to clearly here now reserve the right that in terms of all of the other aboriginal rights that we are talking about equality will be brought up again and we want that dealt with in particular reference to 91(24).

THE CHAIRMAN: Premier Devine.

HON. GRANT DEVINE: Mr. Prime Minister, I believe that we can proceed. Clearly we support, as most Canadians support, sexual equality for male and female people. If after the

proposed amendments to the Indian Act, particularly Section 12(1)(b) are introduced and the Indian women are still of the opinion that sexual equality for Indian women does not exist we, and I suspect anybody else here and certainly the province of Saskatchewan, are prepared to support the call for an extraordinary meeting to deal with that specific issue of sexual equality.

I would think that we could proceed on that basis. I share a little bit of your frustration. I believe that we are all in support of equality and I think that we can proceed and get on with it.

THE CHAIRMAN: I don't know if you are being cute, Premier Devine, but it is a good way of saddling us with our responsibilities but I don't think it has escaped at least the women here that they are asking for more than that. They are asking for a constitutional entrenchment and that is the issue before us.

HON. GRANT DEVINE: I am prepared to entertain an extraordinary meeting if it is agreed upon that the others find it inadequate.

THE CHAIRMAN: I am inclined to take Mr. Penner's suggestion and ask our ministers to withdraw and see if at least on the constitutional amendment they can come up with a text which pleases everybody in the next hour. It would be a miracle but they have done it before -- Premier Lougheed?

HON. PETER LOUGHEED: I don't agree with that process and I make myself clear on

it and I don't think that is the way we should be proceeding. It is a repetition of what occurred last year. If there is a successful challenge and the case is made out that we have inadequately met the provisions of equality between men and women for the aboriginal peoples, then after that successful challenge I think we can work it out very quickly to resolve the problem.

THE CHAIRMAN: Well, we can still send eight ministers out there -- seven. Mr. Levesque says there will be seven.

HON. RENE LEVESQUE: It brings back memories.

THE CHAIRMAN: No, it is really -- I think it would be really unproductive to have the meeting that Mr. Penner suggests if we don't have at least the presence of someone from everywhere.

HON. ROLAND PENNER: If I might be allowed a brief comment I am somewhat surprised, particularly coming from Mr. Peckford, that we should first have a successful challenge and then an agreement.

You know, that argument could have been made about the whole Charter about every issue that was addressed on the Charter. Why don't we wait until there is some trouble and then we will get together and resolve it. You know, the notion that I heard from the Premier of British Columbia that we should leave it up to the lawyers is an abdication of political responsibility, a constitution is a political document. What have we heard from one of the major constituencies in this country, the

women, they are not satisfied with what we did.  
Why don't we go and produce something that they  
will be satisfied with and never mind the  
lawyers.

--- Applause



THE CHAIRMAN:

If we all had, and we probably do, a woman lawyer on our delegation we could ask them to go out and work at it. I bet you they wouldn't succeed. Not because they are women, but because they are lawyers. (Laughter) I am really a little helpless here. I will hear from Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I think we have really made tremendous progress in the last few minutes. (Laughter) Well, first of all the federal government has been persuaded to put sexual equality in Section 35 in positive words and this can be the first aboriginal rights in a new charter of aboriginal rights for the aboriginal peoples of Canada. The other non-aboriginal peoples have a charter of rights. This can be the first charter for aboriginal peoples and we agree on the object. I think we can solve this here and now and I would just say with respect to the Minister of Justice that there is a simpler way of doing it. He has added or he has recommended adding a fifth section which ties into subsection (4) which ties into subsection (1). What I would say there is at least the possibility that a court may find a conflict between all these sections on equality rights. Let's just add the phrase, since the question is we want to find a way of applying sexual equality to all rights, let's just add the phrase to the existing subsection (4) "and this guarantee extends to any other aboriginal and treaty rights and any other

rights and freedoms of or that pertain to the aboriginal peoples of Canada" and forget about having another part 5. That would make it clear that it applies to all rights of aboriginal peoples. It would include the word "freedoms" and it would avoid what we see as at least a possible conflict situation. Thank you.

THE CHAIRMAN: Well, in order to try and reach a decision which obviously is not going to be reached around this table I am going to suggest the following: that those who think that by the end of the day we may have some agreement amongst a number of delegations that we could go out of here with the constitutional accord I suggest that they go with our Minister of Justice or send somebody with our Minister of Justice to see if by the next hour they can come up with a text at least with which we can agree amongst those once again who still hope for a constitutional accord. If they fail or if we fail it won't be work which will become effective today, but if we do decide to move on a constitutional accord at least we will have made an effort to find a new and more satisfying text. So I take it that at least your delegation can find a lawyer to go up with Mr. MacGuigan, Mr. Hatfield? Mr. Hatfield says no.

HON. RICHARD HATFIELD: That is not the problem. All we have to make is a political decision. That is my excuse for having made the

mistake last time.

THE CHAIRMAN: State the decision you would like us to make then.

HON. RICHARD HATFIELD: Allay the concerns that aboriginal women have that they do not have real equality.

THE CHAIRMAN: Let's make a political decision to allay those concerns. Is that sufficient?

HON. RICHARD HATFIELD: In the Constitution.

THE CHAIRMAN: In the Constitution. Who is going to disagree with that? I will write it out or have some lawyer ...

HON. RICHARD HATFIELD: I didn't write the Constitution.

THE CHAIRMAN: Well then why don't you want to have someone write out what you say if you don't want to do it yourself?

HON. RICHARD HATFIELD: As long as it is acceptable to these people I say I am for it because it is their initiative.

THE CHAIRMAN: Well, let's, if it is acceptable to these people we have got to present them something beyond your words.

HON. RICHARD HATFIELD: You have presented something and all I ask -- I don't expect to win every battle. I just want to have it discussed and it has been discussed. Again I want to say to the white women of Canada they are on notice that they had better come forth and use the same tactics they used when they wanted things for

their rights protected and it worked. I was effective. They had better do it again because if one woman, native or otherwise, if a Canadian woman loses something or feels she is losing something, a right, a constitutional right then I think every woman, Canadian woman is in trouble. It is a position I have taken with regard to the language issue. It is my citizenship that is at stake and that is what I hear. I can't understand why other people can't hear it. I can't understand why you say the Indian delegation doesn't want to recognize it. Can't they hear it? If we won't listen to this we won't listen to what they want to say. Can't they hear that? Can't they see that? You have got an awful lot at stake. I know what I am talking about.

THE CHAIRMAN: But when then do you object to trying to come up with a text that at least ...

HON. RICHARD HATFIELD: Unless there is an agreement I recognize that we can't have it. You have a text and the Inuit have a text and the Native Council have a text.

THE CHAIRMAN:

How do you know there is no will?

HON. RICHARD HATFIELD: That is what I want to hear. I have heard ...

THE CHAIRMAN: Who doesn't have the will around the table?



HON. RICHARD HATFIELD: I have heard them say take the case to court. Why didn't we say that to the women when we were writing Section 28? I remember a lot of people said it wasn't necessary. All the women in the United States would like to believe it was necessary. They would like to have it.

THE CHAIRMAN: Well, I can't speak for those who ...

HON. RICHARD HATFIELD: Why don't we tell them that because there are so many of them? Let's admit it, there are so many of them.

THE CHAIRMAN: I find it puzzling why you are attacking those who say let them go to court but you are not supporting those like us who are saying let's try and write a better text.

HON. RICHARD HATFIELD: I do support it.

THE CHAIRMAN: Why don't we send some people up with Mr. Penner and try to write something?

HON. RICHARD HATFIELD: All right, do it.

HON. ROLAND PENNER: Those who want to do it and participate go to the room on the 5th floor.

THE CHAIRMAN: The Concord Room.

HON. ROLAND PENNER: There might be some left-over breakfast. Maybe we could meet there in ten minutes.

THE CHAIRMAN: Premier Devine.

HON. GRANT DEVINE: Just so we understand it are we talking about sexual equality or the whole accord?

THE CHAIRMAN: Just sexual equality.

HON. GRANT DEVINE: But you premised that with something to the effect that those who agree with the accord to go and work on sexual equality, or did I miss something?

THE CHAIRMAN: I was afraid not everybody at the end of the day would want to go along with the constitutional accord and that is why I am not forcing everybody to go to the room, but those who don't want to go to the room shouldn't prevent those who are still hoping for constitutional accord to do so.

If you are asking, Premier Devine, whether going to the Confederation Room will link you to the overall accord the answer is no, but if it is possible we can find constitutional accord on that particular item then I think you should let somebody join us without prejudice.

HON. GRANT DEVINE: I find it difficult to change the Constitution at ten to 4:00 on almost anything but fair enough. I understand what you mean.

THE CHAIRMAN: All right. The meeting is not adjourned. Just those delegations and I hope as many as possible who want to make further written progress on this will meet upstairs, but I think assuming we want to leave by 5:00 o'clock, I think we should try and advance decisions in some of the other areas. I can see a few outstanding questions yet. How do we deal with the problem of the Metis? I don't mean substantively. I think that was your point. We can't solve it today, but we do want

some kind of an agreement that it should be dealt with in the immediate future and I would also like to see if there is some agreement to the socio-economic study of the condition of native peoples regardless of whether federal or provincial jurisdiction.

I suggested that that work would be begun at least as far as we are concerned by Senator Austin as the Chairman of the Social Affairs Committee of Cabinet and I would like -- like to seek some understanding on that as to the degree to which we think the work should be done. I think if we did those, covered those two subjects while our colleagues are working on sexual equality we would at least know where we go from here when we adjourn and I will deal with them in that order unless I have other suggestions for items on the agenda.

MR. SAM SINCLAIR: (Metis National Council): Thank you, Mr. Chairman, seeing we are on the Metis issue I would like to read our position by the Native Council of Canada. The Metis National Council on the Alberta position. I want to address my comments to the provinces, in particular to the Premier of Alberta. In 1981 the Alberta government was a major player in getting my people into the Constitution. We thank you, Mr. Premier. In 1983 you, Mr. Premier, led the recognition of the Metis National Council as a legitimate voice. We thank you. In last year's First Ministers Conference you supported us in the Accord which was signed. We thank you for that also. Today I cannot thank the provinces who are dragging their feet. I, as leader of the Metis people of Alberta, am disappointed with the lack of input and lack of anything positive from the provinces and in particular, Alberta.



Contrary to the claims made yesterday, the Metis of Alberta have gained nothing in the last year and I am concerned that after the TV cameras are shut off today the political will, as little as there is, will disappear as well.

The issue of self-government has bogged down. This conference has bogged down. While the provinces and the federal government argue jurisdiction who loses, the Metis lose. The Premier stated again as he did last year, I quote: "We should be taking steps to improve the position of the Metis people in Alberta." I and this council are telling you, Mr. Premier, that a way to improve the position is to support me, support us in seeking self-government and an accord of the Metis self-identification. You or your ministers are again, as President McIvor said this morning, trying to tell us, tell me that I don't know my people, or I don't know -- my people don't know that will improve our position.

I know and I am telling the provinces if you are sincere, if you want to improve our position then move in a positive way on self-government and land. Move on our accord on self-identification, get off the fence. I at this time am going home with nothing. The governments cannot even agree on the question of Metis identification. They won't -- they still won't agree or acknowledge that I know who I am. I invite the Premier of Alberta to once again lead us in a positive manner and

before I write off, I am willing to die for our people, but if I am allowed to die, I would like to take some ministers with me.

Thank you very much.

--- Applause

THE CHAIRMAN: Mr. Bruyere.

MR. LOUIS BRUYERE (President, Native Council of Canada): Thank you, Mr. Chairman. I would just like to reiterate what you said earlier on this morning when you were wrapping up this morning's session. It was that there was an opportunity through this next round of talks to make sure that the Section 91(24) issue does come up under the equality of the aboriginal peoples and I just want to make sure that that is what you said this morning.

THE CHAIRMAN: That is what I said and insofar as we are concerned I will seek a consensus on that as soon as I have heard further speakers but I think that is the most and perhaps the best we can do today and you are happy with that and we will try and formalize it in a decision at the end of the conference.

MR. LOUIS BRUYERE: In terms of the other issues, in terms of the social program issues that you were talking about, we see that sort of necessary to happen but not in this forum. We see that happening in a bilateral process after this conference is over in terms of next year and I had a short talk with Senator Austin to make sure that that can go forward but we are in agreement

with that as long as it does not take up this forum, because this is a constitutional forum and that is not.

THE CHAIRMAN: That is quite our intention. It is a fact finding mission and we will co-operate with anyone who will help us, but it is not our intention to make, shall we say, jurisdictional recommendations as to whether the Metis should be helped by one or the other or by both, that will again become a constitutional question. I think we have to be more converse with the facts and know where the delivery of service is most lacking and so on and rather than wait for the constitutional issue to be decided before doing that work we would like to proceed and start the work now without prejudice to the other discussion.

Mr. Sinclair.

MR. JIM SINCLAIR: Yes, I think that I would like to discuss the matter as well that we had discussed, equality, 91(24) yesterday. However, it is going to cause some problems at this time. I think that for the first time since last year the aboriginal people had agreed today on the self-government issue that came up and was presented yesterday and I think that even though there may be some disagreement of how it was spelled out, how it was put on the table, I think that the aboriginal groups had agreed on the concept and the idea and I wouldn't want to divert from that or divert this meeting away from any of that to show that there is no solidarity amongst the aboriginal

people.

We have reached a consensus amongst ourselves that self-government is of primary importance and I don't want to take that away or remove that from this conference.

I would also suggest again that if we cannot reach an agreement today on self-government, I would suggest that we do not agree to a political accord.

I mentioned that before and I still am in favour of that, because a political accord is nothing more than saying we are going to go away and come back again next year. However, I would suggest that when we leave and if nothing takes place at this conference, no advancement takes place at this conference, I would suggest that before we come back next year that any constitutional amendments or any constitutional changes that will be brought to this table will not be brought to this table the day of the conference, but will be brought to this table at least three months before the conference so people have a chance to go over it and discuss it and then entrench it in the Constitution if we feel it is necessary.

THE CHAIRMAN: Well, the three-month rule is a pretty tough one. I know from experience that we wouldn't have had Penner three months ago, we wouldn't have had time to study it. We barely got Penner studied and answered at the beginning of this week as you



know and I am happy to accept your three-month rule but you may be saying that it will be discussed in '87 rather than '85.

MR. JIM SINCLAIR: I would rather something than people coming to the conference and saying they can't deal with something because they hadn't seen it before.

I disagree with the fact that we haven't presented anything, but I also know that nothing was presented to us in the sense of some alternatives or some ideas to be presented at this table and that also worries me. —

However, the other aboriginal peoples that are here, I am sure, have ideas of their own, but I wouldn't agree to a political accord before I leave this conference that we continue to speak about various issues.

THE CHAIRMAN: Well, on that last point I get your message, but once again there has been constant reference to the fact that we only came down yesterday with a text, not only that is true for many of you who brought texts in to us in the last 24 hours, but the reality is that there has been an ongoing series of meetings between officials and ministers and we all hoped that they would have moved faster and in different directions, but the federal government alone or any province alone could not force the pace, nor indeed could any aboriginal group and when we came up with the final meeting then the government of

Canada, the Cabinet of Canada had to take a position on it and if we thought we were acting alone we could have taken perhaps a much different position, but we were trying to take a position that would get the basis of a constitutional amendment and that notwithstanding Premier Hatfield means a certain number of acceptances.

Premier Lougheed.

HON. PETER LOUGHEED: There are a couple of things I would like to say about this area, Mr. Prime Minister. First of all I agree with the essential thrust Mr. Sinclair just presented and I think a number of other Premiers I sense too. Perhaps three months is impractical, but I really think that as we move towards another conference the ministers could agree on a cut-off date and make exceptions to that but I think there should be a real effort made to have a cut-off date in terms of something that is considered to be constitutional amendments.

There is certainly discussion today that would indicate that the essential need of that.

I really want to ask you a question, Prime Minister. I came to this meeting and as I mentioned on two or three occasions now in regard to the Metis in our province, I have been of the view that I felt they were our primary responsibility and it has been suggested that we are not doing enough and perhaps validly so and there is more we should be doing and we accept that, but we have always looked on the issue as being one that is a primary provincial responsibility and as I mentioned this morning, that

was close to the words that you used in your remarks at page 13 of your document yesterday.

We have now had a different presentation by the Metis National Council and they suggested it wasn't different but it is a different emphasis than I had had before.

I have to, therefore, reassess the position of our province with regard to this whole matter. In the process of doing that I would be interested in your view. Perhaps you are not able to respond now but would the federal government be prepared to consider a position where the Metis people were in the same position under Section 91(24) of the Constitution or putting it another way, accept the primary responsibility for the Metis and how would we work that out because, to me, it seems to be a much more complicated problem but I may be wrong about that and I am prepared to think about that.

THE CHAIRMAN: Well that is a difficult question and I am happy to attempt to deal with difficult questions, especially at this stage in my career. I must return to your first point though about the 90 days and perhaps making them shorter. You know, let us not think that support for constitutional change is not forthcoming because somehow delegations only saw our final text yesterday morning as indeed we saw yours and we heard Nova Scotia's for the first time and Ontario's for the first time. You know as well as I do, Premier Lougheed, how governments work against deadlines and

let me just add that I had the perception yesterday that several Premiers were saying almost quote unquote, "we would be debasing the constitution by trying to amend it every year".

The objection was to constitutional amendments per se at this time, because if it is just a matter of saying we don't have to go out of here at 5:00 with a constitutional accord, but if we give you another 15 days we can get it, we will give you 15 days or three weeks or whatever is needed. I just want to make that clear because I am afraid there is going to be some attempt to say it would have all worked better if all of us had brought in our texts several weeks ago.

HON. PETER LOUGHEED: I am not being critical with regard to the past and say going forward from here I think the process could be improved.

THE CHAIRMAN: Well you have got my blessings to try and achieve that.

On your other question, Premier Lougheed. I obviously can't bind the Cabinet, it is not a subject as you pointed out yourself yesterday afternoon or this morning, which has been on our agenda. Therefore it is not something which has been considered by the government of Canada. I can give you my own reaction to your question and it is not going to bind anybody beyond the middle of June, but until then if action is needed I guess I will stand on my opinions. It is that when the Fathers of Confederation wrote Section 91(24) they were also writing Section 92



and the annex which dealt with lands and let's consider that in reverse order because it is of relevance to the Indians and of relevance to the Metis as well as the white man. When the confederation document was proclaimed, resources and lands, including oil, went to the provinces as you well know and Crown lands now except north of 60 are provincial lands. What was withheld from those provincial lands is, and Section 91(24) said Indian lands. So if we are arguing now that the Fathers of Confederation meant to include Indians -- Metis and Indians or subsequently if we are arguing that these Fathers and Mothers of Confederation now want Metis to be considered as Indians, it follows that as Indian lands went with Indians, being subtracted from the provinces who were getting everything in terms of resources except Indian lands, it will also have to follow and that is what I was telling Mr. Wells yesterday, that we will have to do the same thing with Metis.

Therefore, my answer to you is yes.

If I remain Prime Minister long enough we would be prepared to consider a constitutional amendment saying that Metis come under Section 91(24), but they would come with their lands which is a message to you and to the other Premiers and which is a message also to the Indian and the Metis and I see them nodding happily because if they come to ---

--- Applause

If they come under federal

jurisdiction with the lands that go with it, it will be somewhat easier for us to give them the land base that goes or should go with self-government and the reason why we are having difficulty, as John Munro pointed out yesterday, in negotiating some of the treaties is that, not that it is -- it is a matter of interpreting what of the Crown lands which went to the provinces in 1867 or since then really should not have come to the provinces because they should have stayed with the Indians.

HON. PETER LOUGHEED: I think the general thrust of the question is clear but as you so well know it raises a multitude of sorry questions. The timing that is involved, the nature of the land claims, the diversity of interests, the definition of what comes within Metis, the identification that they have appreciately asked for, the issue of mixed communities, the services to mixed communities, a multitude of problems go with that thrust. I wouldn't want to do anything other than think about that.

THE CHAIRMAN: I agree with that completely and since you are at least alleged to be the author of the constitutional amendment formula we have now, it would be interesting to know how that would apply, shall we say, in the province of Quebec where we would be transferring a provincial area of jurisdiction to a federal area of jurisdiction. I take it that that is their view, that they have authority over the Metis and this is an area where they could opt out and if they opted out would we get fiscal compensation or land compensation that would come from that and we will just leave the question and maybe the two experts who agreed on the Vancouver formula can sort it out amongst themselves, but enough to say that you are quite correct, it is going to be a complex question and we certainly can't give an easy answer to it, but all the more

reason, as Mr. Bruyere says, that we agree as we leave today that it will be systematically studied.

Yes, Mr. Nerysoo.

HON. RICHARD NERYSOO (Government Leader, Northwest Territories): There is no doubt people here know that the government of the Northwest Territories supports the idea for the entrenchment of self-government. One of the problems that I have noted from the past year has been the fact that we seem to have taken on as Ministers and as aboriginal groups, I think, a number of items that required a lot of time and a lot of effort to try to clarify. The specifics on the agenda and I suggest to members here that if we are to accomplish something a year from now that you ought to reduce the agenda item to one specific issue. If it is self-government that we will come to an arrangement on, then I suggest to you and suggest to the leaders and the Premiers that let's deal with that particular issue, because I don't think we are going to be able to get beyond the issue or at least generalities as we have over the last two days if we don't deal with a specific item so that we can send and direct our officials and Ministers to deal with those particular issues and including, I believe, that same situation would arise with the aboriginal organizations, because unless we are clear about that, if we are going to leave today knowing that we are going to accomplish something a year from now, let us assure ourselves



and assure the people of Canada that we are coming back to accomplish something or at least resolve some of the outstanding issues that are on the minds of the leaders of this country.

THE CHAIRMAN: Thank you.

Mr. Sanderson.

MR. SOL SANDERSON: Thank you, Mr. Prime Minister. I had requested the floor earlier today before we broke, but what we would like to deal with is cut through some of the smoke here and address some specific with relation to the obstructionists, whoever they may be, who are presenting the implementation clauses from being introduced and accepted for entrenchment.

I would like to ask you, the Chairman of this conference, because we don't have any agreement on substantive entrenchment clauses at this point, we would like to prevent some things from happening in the future that have happened here.

We too are concerned about programs and policies. We would like to get an agreement from this forum and yourself that those issues can be better dealt with in the ministerial meetings that takes place annually with respect to education, health and so on and that we participate in those forums to address more fully the concerns that anyone may have with respect to those issues.

We also would like to know with respect

to your proposal our suggestion that you table a resolution in the House, because we don't have the consensus of the provinces and we don't have the numbers of the provinces that we require for amendment, but you table a resolution in the House where we agree upon the wording of a resolution that could be introduced within the next few weeks.

We don't feel that a political accord that serves the only purpose for provinces and the federal government making another declaratory statement about how we want to proceed is sufficient. We would like to be able to move ahead with the process through to '85 in a real way and if that can be achieved by introducing a resolution into Parliament with the support of some of the provinces then we would want to move that route where we agree on the wording with respect to that resolution. I would like to know from you, Mr. Chairman, what your position is with respect to that approach?

THE CHAIRMAN: I will deal with that briefly now, but the answer is yes if that is the way you want to proceed. We can leave here today without any conclusions at all and try and work out a further accord. I think that would be a sure recipe for failure, but I am prepared to follow it if that is the will particularly of the aboriginal groups.

The alternative -- the alternative to that is to accept the formulation that we have now and perhaps give each other 15 days or three

weeks, if necessary, to see if it can be improved in a technical sense so that it means what we want it to mean and not fall into the mistake that we made last year by doing it in 48 hours. This is possible and if that is what you are asking, Mr. Sanderson, yes, that could be done and there might be advantage in doing it, but the hope that we would enlarge the consensus by spending the next few weeks trying to put more into it than we have done already, if that is your conclusions we will accept them, but if I were you I would grab what we can and then continue working for more, but you are the bosses.

You know, that is the nice thing about self-government that you are so anxious to have, it means difficult choices and if you choose what we are suggesting you are going to get a lot of your followers mad at you, but if you don't choose what you were suggesting, you are going to get a lot of your followers made at you, that is what self-government is all about.

Mr. Chartier.

MR. CLEM CHARTIER: Sol has a supplementary.

THE CHAIRMAN: Sorry. I had understood he terminated or finished by asking me a question. Do you want to carry on?

MR. SOL SANDERSON: Yes, Mr. Chairman. We would want to find some way of dealing with the impasse that some of the provinces have created here on moving ahead with additional amendment clauses and we have tabled several of them and they haven't

been discussed fully yet, including the one on self-government, title and the treaties.

THE CHAIRMAN: Maybe Mr. Nerysoo was right and next year we should just have one item on the agenda.

There is Mr. Nungak and Mr. Chartier and Mr. Levesque.

MR. ZEBEDEE NUNGAK: Thank you, Mr. Chairman. Before I pose that question to you on behalf of the Inuit of Labrador, I would like to say that yes we are -- our experience in pursuing the issue of self-government has been one of many hard choices on our part. For example, one of the hard choices we had to make was whether we should pursue purely ethnic or a government formulated upon racial lines, but as you know the models we have presented in Nunavut and in the Kativik regional government in Northern Quebec, they are non-ethnic, non-racial or non racist public forms of government.

Now, that was a very hard choice for us, knowing that we have the numerical majority today, but that equation can change over night with a major development or a mining town that could be set up over night.

So yes, there are hard choices to be made, but up to this time the hard choices have been made mainly by us, because we have had to make them, make them with our backs up against the wall of the status quo. We have seen this process



when we embarked upon it. We did not merely expect that the status quo would be maintained. We had made many suggestions for a reconstruction of the status quo. We wanted to do some constructive damage to the status quo in order that our aspirations be accommodated and that in having our aspirations accommodated we also considered the needs and requirements of other Canadians or other Quebeckers or other people in other jurisdictions. So yes, I think some of the hard choices now will start having to be made by the various governments around the table who have not mentally come to terms with the fact that we have legitimate aspirations that need to be addressed.

We have been quite consistent in making our case. In fact, many times we have found ourselves in a position of being an honest broker between the governments and the aboriginal groups, not by design but by the fact that we have made strides and inroads. We have made progress. There are developments taking place that we can show that clearly show to the provinces and to the people of Canada that these possibilities are workable. They are worth developing.

Mr. Prime Minister, in your opening statement yesterday you stated that self-government for the Labrador Inuit can be achieved through land claims negotiations, yet a political development

has up until now been excluded from the land claims process. There is a clear contradiction between what you said in your opening statement and your government's land claims policy. We feel that this contradiction must be clarified if the people of Labrador are to have a positive outlook in their intention to negotiate.

So my question to you is:

Mr. Prime Minister, can you confirm your statement that the Labrador Inuit can look to land claims to provide needed self-government is a clear reversal of a federal land claims policy denying that political development can be negotiated through land claims?

THE CHAIRMAN: Don't ask me if anything I said is a clear denial of government policy, but what I said yesterday is what I mean and it is government policy. I admit that the land -- is that enough?

MR. ZEBEDEE NUNGAK: Thank you.

THE CHAIRMAN: On your earlier point, I am glad that you made it, because there is some thought afoot that you are asking and we are consenting to some form of government or self-government based on ethnicity. That is not the fact and where any government anywhere should govern for all its people regardless of whether they are white or Inuit or what and I think you made the point very cogently.

MR. ZEBEDEE NUNGAK: We have made that point for almost three years now and it is

strange that some governments still knock on us for making it seem like we are asking for erosion of their provincial authority or erosion of their jurisdictional power or whatever. It is not so. I think Mr. Levesque can attest to that.

In fact, his Eskimos in the province of Quebec control effectively the top third of the province of Quebec, but I don't think we have damaged Quebec's territorial integrity or its provincial powers and in fact it has enhanced in many ways.

THE CHAIRMAN: He will get a chance to attest to that in a moment. I will recognize him after Mr. Chartier.

MR. CLEM CHARTIER: Thank you, Mr. Chairman. I just want to reflect on what Mr. Lougheed and yourself stated with respect to the Metis. We realize that yes in fact, Mr. Lougheed, it is in fact a very complex area. It is an issue of one that is long standing. In 1867 it is our view that the framers of the Constitution at that time had in mind all of the aboriginal people of Canada. At the time the term "Indian" was of course the accepted term in North America and it was used, of course, to include the Inuit, the Eskimos as we saw in the 1939 Supreme Court of Canada decision. So I think when that document states "Indians and the lands reserved for the Indians" I think it is used in a wider sense and in fact there is a Privy Council decision of the late 1800's that dealt with

the latter part, lands reserved for the Indians. The government of Ontario argued that that meant Indian reserves and the federal government in their wisdom argued no, it means all lands reserved for the Indians including lands under the Royal Proclamation and the justice in their wisdom argued yes, you have to give that wording in that constitution a liberal interpretation and I guess we are saying the same thing with respect to Indians in 91(24), it includes Metis people.

To complicate things even more, possibly complicate them or maybe explain them, Section 146 of that same Act referentially incorporates the Rupertsland Northwestern Territory Order which admitted Rupertsland and the Northwest Territories into Confederation or made it possible and it referentially incorporated the land rights of the Indian peoples and we base that as well on our rights. Our rights are based on that as well. We are saying that the Metis people as aboriginal people had and still have aboriginal title. We are stating that our rights in fact were constitutionalized in 1867 by that referential incorporation.

The Manitoba Act of 1870 also gave constitutional force to the aboriginal rights of the Metis people.

Now, you have Dominion legislation, you have the Dominion Lands Act of 1879, that purported to extinguish the rights of the Metis people, but it



was ultra vires legislation because the 1867 Act in fact gave constitutional protection to our rights, our aboriginal title and rights as a Metis people, as an Indian people.

The 1930 Natural Resources Transfer Agreement did transfer lands to the provinces, but there was a proviso that lands required for the purposes of Indian lands would be reserved, not reserved, but the reservation was that land would be made available by the provinces for that purpose and we are relying on that as well. It is complicated and the current Section 35 in the 1982 Constitution Act speaks in terms of existing aboriginal rights. We are saying that, because of the past legal background, that we have existing aboriginal rights, but we have also stated that without prejudice to those rights we don't want to seek legal solutions or legal arguments, court interpretations. We are saying we want to pursue a Section 37 process, political process and derive what is necessary for the Metis people as an aboriginal people to survive in this country, to take our rightful place in the society. As Mr. Sinclair stated last year, your government's initiative, past government's initiative in Alberta is a start and a good start. Land was set aside for the Metis people and a degree of self-government was established. We want to build on that.

So this Section 37 gives us that opportunity. We looked at the federal government because we feel legally they have that responsibility, because they have not I guess -- they decided to either shirk their responsibility or to not recognize their responsibility. It does not mean that they do not have it now, but I think it is a mere -- it takes a mere political will on the part of the federal government in our eyes to assume its rightful jurisdiction vis-a-vis our people, but again that may be something we should settle in the political process over the next several months. Again I say we realize it is a difficult issue, but we believe it must receive intensive and immediate attention and we would like to explore the Chairman's proposal made before the lunch break that some sort of mechanism be set in place to deal with this issue. We feel it is very important. Again we can't resolve it today, we realize that. So let's talk, let's put in place a mechanism and we would also want to ensure that this mechanism looks at the potential for entrenchment of our rights, discussion of our rights and let's as was stated have a look at the results of this several weeks or a month before the '85 conference so that provincial governments and the federal government and ourselves can examine this and see if there is any positive movement that can take place and let's see if there is entrenchment that can take place not on the basis of pure political pressure, political pressure is necessary, but not solely that. Let's do it with

some full understanding and willingness on the parts of government to do so.

Thank you.

THE CHAIRMAN: Yes, Premier Lougheed, briefly.

HON. PETER LOUGHEED: The only concern I have with your comments, if you move in this direction using the phrase which we have in the Constitution "Metis" and you move with the process of federal responsibility, I presume you are prepared to accept the view that there will be considerable pressure on the question of identification of who is Metis and the broader it is the greater the potential resistance in the direction you are now moving.

MR. CLEM CHARTIER: Yes, that is correct. We have been consistent. We have stated over the years who we are and where we are and we are prepared, as we stated earlier, to enter into that enumeration process through some kind of a communique coming from this conference on the criteria that we have put forward. We certainly don't agree as was stated in our opening remarks that a Metis person is a person of mixed blood and not only that, it takes more than that. The Metis developed as a western people or within Western Canada. We find ourselves within the three Prairie provinces and Northeastern British Columbia, Northwestern Ontario and part of the Northwest Territories as the original homeland of the Metis. Some of our people have moved

that is true, but that is where the Metis have developed as a people and that is where we say the Metis homeland is, but we have put forward a criteria that states that if in fact there are people outside of the homeland that feel that they are Metis people, we are prepared to look at that, but our position is that we are a Metis people. We emerged as a distinct aboriginal people. History is there to back up, legal interpretations are there and we don't see it as a problem, but we should enter into that process doing an enumeration.

THE CHAIRMAN: Well, the question of enumeration we may as well face would have to be looked at in whatever continuing conference or series of meetings we have. It is at the root of the problem and apropos of that I, of course, will take exception to the interpretation of the Supreme Court judgment, not because I wouldn't want it to go the other way, it is purely objectively. They did look at enumeration then to decide who in the Rupertsland had been considered as Indians and their conclusion was that the Indians had been considered as Indians and the Inuit had been considered and treated as Indians, but that they did not include the Metis, but you know you and I are not going to carry on the legal debate here. I just want to say that there is another point of view to the one that you have expressed and maybe two lawyers should go off in another room and talk at it, because I do want to move ...



MR. CLEM CHARTIER: I am not saying yes we won't enter into that legal debate -- yes, we won't enter into that legal debate, because here again we are at a disadvantage. You are the Chairman and you say we won't enter into it and I guess we won't.

THE CHAIRMAN: Well that settles it. Mr. Levesque? I have been told by heads of delegations that at five o'clock they will start leaving so we will have to have a report from our colleagues upstairs on sexual equality and we will have to make up our minds in the next 25 minutes what we go out of here with. Maybe I should anticipate now so that we can just measure our time. I think we will just go out of here with a decision to put at the top of the agenda of meetings of federal and provincial and aboriginal peoples, territorial peoples, at the top of their agenda in preparation of next year's conference we will put the question of the Metis including Metis enumeration, that would be my first proposal.

My second proposal is that we would carry forth with the purely fact-finding decision that on the socio-economic conditions of all aboriginal peoples and we will address obviously the various peoples and the provincial governments as to how that best be conducted and we are not trying to monopolize this, we just want it to be done so that the governments and the Canadian people generally can, next year, for the purpose of discussing these issues know whether a lot of people fall between two stools and whether those who are sitting on stools are sitting on pretty low stools too, so these are the kinds of facts we want to set forward and unless I hear further comment I would agree -- I would suggest there is

a general willingness to do that.

So we are left with a report on sexual equality and let us hope for the best and we are left also with the question of what we do on self-government and all the subjects pertaining thereto, cultural services, the negotiations which would follow from the recognition of self-government and so on and we will have to make a quick reading at that point of what we want to go out of here with and we won't have much time.

So let me suggest that we hear from Mr. Levesque and Mr. Sanderson wants to come back and I will start with that.

M. RENE LEVESQUE: On peut être d'accord avec les conclusions que le Premier ministre fédéral vient de faire par anticipation. Là on vient de me dire que c'est un peu le même genre de confusion qui règne en haut que celui qui régnait tout à l'heure aussi, remplie de bonne volonté mais très confuse.

On sent très bien que cette journée va finir dans un climat lourd surtout chez nos concitoyens autochtones, dans un climat plutôt morose et plutôt triste et ça se comprend. Pourtant il me semble qu'il y a moyen de faire des progrès, je ne sais pas exactement de quelle façon, je n'entrerais pas dans la plomberie mais j'écoutais tout à l'heure monsieur Nungak qui parlait de l'expérience qu'on vit dans le nord du Québec. C'est une expérience valable, on n'a pas à en prendre le mérite, ça s'est négocié, ça s'est conclu pour l'essentiel avant que nous soyons au gouvernement à Québec. Nous avons appris à vivre avec ces conventions du nord québécois, nous apprenons encore d'ailleurs et je crois que ça a été un changement extraordinairement bénéfique qui n'avait rien de révolutionnaire mais extraordinairement bénéfique pour nos concitoyens inuit et je dois dire que ça n'a dérangé personne, par ailleurs, et il me semble en tout cas qu'il y a quelque chose qui peut servir jusqu'à un certain point, sinon de modèle, en tout cas d'inspiration dans d'autres cas.



En regardant comment c'était en train de se terminer tout à l'heure, je n'étais pas capable de m'empêcher de penser que cette année 1984, évidemment c'est au Québec qu'on en est le plus conscients, cette année 1984 c'est le 450e anniversaire de la première arrivée officielle sur le continent nord américain, de la première occupation, première prise de possession européenne du territoire des Amérindiens. Je ne suis pas un historien mais je crois, d'après ce que j'en ai lu, que cet accueil des Amérindiens, nos premiers découvreurs et aux colons qui les ont suivis, cet accueil a été extraordinairement généreux et qu'ils ont partagé beaucoup de secrets qu'ils connaissaient de la nature et puis aussi partagé leurs territoires sans trop de difficulté, sans savoir non plus ce que ça leur coûterait éventuellement.

L'histoire, souvent honteuse des siècles qui ont suivi, démontre à quel point cette générosité initiale a reçu comme réplique une mesquinerie constante, de trop fréquents brigandages, il n'y a pas d'autres mots, et quelque chose qu'il faut bien appeler aussi du racisme et le long du chemin, partout où les blancs étaient également installés, on a parqué les Amérindiens dans de véritables ghettos administrés par télécommande, c'est encore le cas aujourd'hui, sous l'empire de lois, non seulement vétustes, mais

foncièrement inéquitables et paternalistes en même temps, et c'est parce qu'il y avait et peut-être qu'il y a encore, un certain espoir de changement, l'espoir que ce passé puisse être réparé autant que possible et que le présent qui traîne encore dans le paysage puisse être corrigé, autant que possible, que nous avons acquiescé, nous, du Québec, à la demande de nos concitoyens autochtones de participer aux travaux de ces conférences depuis l'an dernier, en dépit des souvenirs assez amers, durablement amers d'ailleurs, que nous avons gardés depuis la fin de 1981 sur ce qu'on appelle le processus constitutionnel.

Pour nous il paraissait important, c'est un domaine que nous connaissons, nous comprenons les enjeux, comme québécois c'est inévitable qu'on les comprenne, il nous paraissait important que les droits collectifs, les droits nationaux, parce qu'il faut les appeler comme ça, des peuples autochtones soient reconnus un jour, le plus vite possible, et aussi certains cas qui sont des droits fondamentaux de la personne, comme le cas des femmes sur lequel espérons qu'il y aura un accord tout à l'heure, auquel, Dieu sait que nous, du Québec, nous ne nous objecterons pas.

Alors, pour participer à ces conférences, nous avons invité -- je pense qu'on a été la première province à le faire avec une telle ampleur -- nous avons invité chacun des peuples autochtones du Québec à faire partie de

nos délégations pour avoir une chance additionnelle de faire entendre leurs voix, d'en faire partie librement. Il n'y a pas de ligne de délégation comme on dit qu'il y a des lignes de partie et c'est pour ça que j'ai été un peu surpris qu'on soit surpris de l'intervention de monsieur Two Rivers de Kahnawake ce matin parce que c'était -- à moins d'ignorer complètement la réalité -- c'était l'expression d'une des attitudes, on en a eu des échos pendant le reste de la journée, qu'on pourrait appeler l'attitude pure et dure, si vous voulez, du côté amérindien et qui est aussi légitime que d'autres.

D'autre part, beaucoup de nos fonctionnaires, nos hauts fonctionnaires, et des collègues dont le docteur Lazure de mes collègues, se sont trimballés pendant toute l'année avec beaucoup de dépenses d'énergie, pas mal de dépenses d'argent aussi, d'Ottawa à Toronto, de Toronto à Yellowknife et à Victoria et ailleurs, pour aider le mieux possible à préparer notre attitude face aux travaux de cette conférence et si telle est la conclusion qui découle de ce que disait le Premier ministre tout à l'heure, le Premier ministre fédéral, nous sommes prêts comme gouvernement du Québec à continuer et à tâcher de nous rendre utiles en cours de route.

J'ai dit que je ne voulais pas conclure par anticipation mais, il me semble bien que cette conférence, pour aujourd'hui en tout cas, est un échec. Le maximum qui va en sortir, c'est qu'on a fait du sur place, et je me permettrais de souligner que c'est peut-être un peu à cause de la façon de procéder, parce que la déclaration de principe que personne n'avait entendue et le projet d'amendements constitutionnel qui est sorti comme d'un chapeau de magicien hier au début de la conférence, avant même que le Premier ministre ait reçu son chapeau honorifique, c'était peut-être trop risqué. En tout cas, c'est le genre de façon de procéder qui garantit rarement de bons résultats.

Ca ne peut pas faire autrement que de me rappeler -- excusez l'expression -- mais en moins pire parce qu'au moins ça se passait en plein jour aujourd'hui et non pas la nuit, ça ne pouvait pas me faire autrement que de me rappeler une certaine nuit de novembre 1981, au bout de laquelle on avait 'bargainé', il n'y a pas d'autres mots, on avait 'bargainé' un texte constitutionnel au détriment du Québec et, en particulier, essentiellement au détriment du Québec français.

A partir d'ailleurs de cette expérience que nous avons cruellement vécue, je m'étais permis d'avertir nos concitoyens amérindiens et inuit du Québec des lenteurs, des



chinoiseries inévitables et des chausse-trappes innombrables de ce processus qu'on appelle constitutionnel, un processus qui est exposé très souvent derrière les nobles paroles et les beaux discours à toutes sortes de calculs et à toutes sortes d'intrigues aussi et, également, à toutes sortes de préjugés -- je n'emploierai pas un mot plus brutal -- à toutes sortes de préjugés dont on sait à quel point ils peuvent être tenaces et même féroces.

On vient, nous, d'en avoir un exemple assez semblant au Manitoba, en dépit des efforts louables du gouvernement de monsieur Pawley; un exemple qui, cette fois-là, s'est déroulé aux dépens de la minorité francophone de cette province et dont on a tiré une conclusion pour la ennième fois, Dieu sait, dans l'histoire du fédéralisme canadien mais une conclusion, encore une fois, c'est que la seule patrie pour nous, la seule patrie certaine et indiscutable que nous puissions avoir, et j'oserais même dire le seul vrai pays sur lequel nous puissions compter, c'est le Québec.

Pour revenir au sujet de cette conférence, au sujet du jour, eh bien ce pays québécois, nous allons continuer quant à nous de tâcher d'y élargir la place qui revient de droit à nos concitoyens autochtones. Nous allons nous

efforcer d'ajouter aux progrès qu'on a déjà accomplis, qui sont loin de la perfection mais qui sont quand même des progrès substantiels, on va tâcher d'ajouter aux progrès qu'on a déjà accomplis ces dernières années, en continuant d'employer le processus que nous, nous avons adopté au Québec et qui nous paraît plus prometteur que celui qu'on voit se dérouler dans ces conférences, c'est-à-dire le processus qui est basé sur des discussions d'égal à égal avec nos interlocuteurs autochtones, la reconnaissance immédiate de leurs droits et aussi de leurs droits d'administrer leurs propres institutions à mesure qu'ils peuvent mettre la main dessus et, partant de là, de pouvoir aménager une coexistence qui soit vraiment civilisée. . entre nous.

Alors, on va continuer de travailler dans ce sens-là, on va continuer nos entretiens, nos négociations, nos pourparlers, on va continuer de garder le contact au maximum et, finalement, j'ai confiance, je le dis en terminant, après une autre rencontre qu'on espère obtenir le plus vite possible avec nos interlocuteurs, nos partenaires inuit et amérindiens, j'ai confiance qu'on pourra proclamer officiellement très bientôt par une résolution de l'Assemblée nationale du Québec les principes que nous avons adoptés comme balises pour notre action continue, y compris, parce qu'on

y retrouve fondamentalement non seulement une reconnaissance de l'identité, une reconnaissance claire et explicite de l'identité et du droit à leurs cultures, par conséquent, et du droit à leurs traditions des nations autochtones du Québec et plusieurs autres droits fondamentaux et aussi le droit indiscutable que ces peuples ont dans toute la mesure possible d'autonomie politique et de 'self-government' pour employer l'expression anglaise.

Merci, monsieur le président.

LE PRESIDENT: Merci, monsieur Lévesque.

Mr. Sanderson, Mr. House and Premier Devine have asked for the floor. I would like to put to you at this point that as for the spokesman of the aboriginal peoples they should in their brief interventions and on behalf of their delegations tell us what they want in their next immediate interventions. Either we go out of here as Mr. Levesque predicted with nothing at all, I am talking of self-government now, because I think we have agreed to put the Metis thing in the works for study and advancement. I think we have agreed to do that on socio-economic questions, but before we hear from our colleagues on sexual equality we are now dealing in the dying minutes of this conference with, I guess what your preferences are in terms of going out of here with what you can get. It will be up to the rest of us, governments, territorial, provincial and federal government to know if we can give you that and we will have to decide that quickly too, but at this point you can either depart with the ongoing process guaranteed by last year's Constitution and an expression of will by all delegations that they are prepared to sit down and discuss the nitty-gritty with you over the coming months and year, or you can go out with an acceptance by at least some governments, including my own, that we be prepared to move slightly or considerably forward with a constitutional amendment, but obviously not the perfect one that everyone would want.



I will call on Mr. Sanderson.

I take it you are speaking on behalf of the First Nations.

MR. SOL SANDERSON: Yes.

THE CHAIRMAN: Then I will go to Mr. House and then I will recognize Premier Devine.

MR. SOL SANDERSON: Thank you, Mr. Prime Minister. In the area that you have requested direction on from the Assembly of First Nations, first of all we want to reinforce the position that we have taken with respect to our need to see implementation clauses entrenched. We have tabled that for your consideration and the rest of the First Ministers. We want to see action on that as quickly as possible. If you can accommodate some arrangements outside of the normal process that has gone on in respect to looking at additional amendments, I am sure that these that are left for consideration can be treated in a similar manner.

I want to correct some of your statements with respect to your explanation to Premier Lougheed about the title that he assumed from the Crown in right of Canada, to the Crown in right of Alberta. It applies to other regions as well, that title was not transferred clear of any conditions because our treaties do have conditions on them and we ask that those lands and those rights respecting resources be kept in mind in proceeding

in deciding these issues before us, because we viewed these treaties as part of what is included in the accord and part of what is included in the constitutional arrangements now and we also would like to proceed with the implementation of those treaties that are already agreed upon. We have the J Treaty, we have the Migratory Convention that requires legislative support for implementation in Parliament. We would ask you to proceed with that in Parliament. We would ask that where those treaties are agreed upon for legislative implementation that proceed.

We also want to be able to allow for re-negotiation for some of the treaties in some of the parts of Canada and that should be flexible.

With respect to the achievements today and yesterday, we are very dissatisfied. We cannot tolerate the obstructionists, in this case many of the provinces that sit around here. If you expect us to deal with the conditions of our people we are saying that we require the powers and the same jurisdictional spheres that you have. We cannot deal with symptom conditions by pouring more money at those symptoms. We are saying that we want the control and the powers that are necessary to turn around those conditions and we ask your co-operation to recognize Indian government. We also talk about the concept of Indian government. Mr. Levesque just spoke before me and he was concerned

about several matters. I want to draw a parallel very briefly about the political arrangements between the French and English people of Canada where you have accommodated the cultural, language and territorial rights of the French people in Quebec, but you also tolerated the recognition of their civil law, the French law and likewise you have done the same thing for the English people of Canada under the common law system. We are saying that we want to get recognition of Indian self-government which includes recognitions of the executive and legislative powers as well as the judicial powers, because we cannot have Indian self-government without being able to enforce it and that requires a judicial system. It requires laws that are constructed by Indians, not borrowed from a non-Indian system, so we are looking for some solutions, Mr. Prime Minister, with respect to immediate amendments. We cannot give that ground because that is what this process is set up for. It is to further entrench and elaborate on the Section 35 that recognizes aboriginal and treaty rights. We say it is a full box of rights, a box of rights that includes recognition of aboriginal rights and also those treaty rights that you have already agreed to.

With respect to the movement from here, as far as we are concerned at this stage we have tried every possible avenue to try to get some movement. We tried to get your support in moving a resolution in the House that would be satisfactory to ourselves and yourself and those provinces that

would participate. Again, that process I understand has not been successful.

We also would not support another political accord. Premier Rene Levesque said that he would sign a political accord but he would not sign a constitutional accord. We cannot tolerate the problem of being caught between the French-English issue all the time. I think those matters have got to be sorted out. You people want to set up governments. Let's get some of your problems ironed out outside of this process. It is meant to deal with our issues and our relationships. Let's keep it at that level. We feel that the process that is here now is at an impasse and I suppose for those of you that have the powers to try to make it work in terms of something that is going to be effective and real to our people and our communities and, Mr. Chairman, I pass this back to you to try to find some solutions in moving this thing along.

THE CHAIRMAN: Thank you, Mr. Sanderson.

Mr. Daniels and then Premier Devine.

MR. HARRY DANIELS: Thank you, Mr. Chairman. I think that in terms of maybe a final statement of the day that for myself anyway that I would suggest that after this meeting, whatever resolutions we do finally reach, that we start immediately on the ongoing process and not have a time



lag so that we don't eat up a lot of time in waiting for something to happen. This process, we start negotiating next week again to establish meetings of officials and of ministers.

I am pleased to see that the item on Metis will be the next one on the talks, but I prefer to talk about it in a broader context and the equality of rights as between Metis and Indians and Inuit and non-status Indians.

I had hoped that we could have reached more on the agenda in terms of self-government and land and resources and language and culture among others.

We would have expected to see more. However, we are prepared to go into the ongoing process to discuss these items and hopefully we will develop a mechanism in the next while that will bring this closer together in terms of focus and not use a shotgun approach.

Perhaps if we could get another constitutional conference designated in 1986, I know that some people don't want to change the Constitution every year. We are not trying to change the whole Constitution, only as it pertains to the aboriginal peoples of Canada. I would like to see those kinds of things happen and maybe

take it to deal with shorter lists and not try as you did in this last year to deal with four items that drag you all across the board and then you diffuse your energy and you don't really zero in on anything. If we had had that at the beginning as I suggested in one meeting we would have been a little further down the road and would have made quantum leaps instead of some stumbling steps. I will say no more at this point in time other than to thank you, Mr. Chairman, for your leadership and involvement in these matters and Mr. Bruyere will be making a statement later on.

Thank you very much.

THE CHAIRMAN: Thank you Mr. Daniels.

Premier Devine.

HON. GRANT DEVINE: Mr. Prime Minister, I would like to repeat that we are anxious to get on with the work. I have visited with the Indian and Metis people in our province and indeed several of them across the country and I would suggest that along the lines that if we want to get into the process I would be prepared to suggest five points that I think, I know, I would be prepared to look at seriously and maybe several people around this table would be prepared to look at.

So, let me just quickly lay them out. I am prepared to direct my minister and

officials to get to work on the five -- on the following five matters and I just give these to you, Mr. Prime Minister, for your consideration.

One, to proceed immediately with examination of definitions and ramifications of various forms of Indian self-government along the lines outlined in the federal response to the Penner Report. We are prepared to start that immediately.

Two, to proceed with the process of community calculations along the lines outlined by Minister MacGuigan in Yellowknife and discussed in Toronto and Victoria.

Three, to proceed immediately with the process of addressing identification and enumeration of Metis. We believe this is a fundamental -- is a fundamental point for the Metis.

Four, I am prepared to proceed immediately with Senator Austin's project to review services and program delivery by government to the aboriginal people. We support this endeavour and will participate fully.

And finally, we are prepared to begin immediately to proceed with the process to resolve the questions of jurisdictions and responsibilities including Section 91(24) and as you said, sir, yesterday, this is inescapable and we agree.

Now, I throw these out as a possibility of five things that we are prepared to

work on now. I am proposing a series of specific initiatives, all of which are constitutionally related and discussion of which will assist in constitutional deliberations. I think we have to have some practical experience in focussing on these constitutional discussions and I believe that if we do go through this process we can properly define and understand all the implications before they are incorporated into the Constitution, so, Mr. Prime Minister, I say again we are prepared to go to work. These are five areas that are of interest to me, of interest to people who are unemployed, of interest to people who don't have enough housing, of interest to people who want opportunities and so forth and I am prepared to direct my officials to get at it and stick with it as long as necessary.

THE CHAIRMAN: Well, these are concrete proposals for an agenda of our following meetings. They are certainly constructive. I guess I will have to seek the views of the aboriginal peoples or of other Premiers to know if they are happy to go out with some such suggestions, or not necessarily these five exactly said in these terms but the kind of thing that we all said we are prepared to do or is there any -- anything left of the hopes for a constitutional accord on which we would agree today? That doesn't mean we can't continue the discussion and reach an agreement later if we can't do it today, but I will have to call a decision in a few number of minutes. We don't have the ministers down from upstairs I take it.



Premier Lougheed.

HON. PETER LOUGHEED: Just a brief observation. I think the matters raised by the Premier of Saskatchewan have merit and I would like to think a little further on the priorities that are involved and the order in which they should be taken. The other views that have been expressed, but generally I think some of the suggestions made by Premier Devine have considerable merit.

THE CHAIRMAN: Premier Peckford.

HON. BRIAN PECKFORD: I think, Mr. Chairman, earlier you indicated some of the same items that Premier Devine has now listed and I mean consistent with what I said before lunch and along the same lines as Premier Devine and Premier Lougheed, I think this is the most valuable thing that came out of this conference is to highlight the specific areas where we have got to dedicate ourselves to discuss and talk about over the next year and I have no problems with it. I have just the same general concerns along the same lines as what consensus can we reach on the priority. Should the one that Mr. Devine said is number one be number one or should it be number two. Outside of that I think he has covered most of the areas that seem to be of concern to everybody and if we identified them that specifically perhaps we will make a bit more progress. Once again it is just a question do you have too many and do you want to isolate it down to

two or three as one of the native leaders said earlier. I have no problem with moving in that kind of specific direction over the next year.

THE CHAIRMAN: Mr. Amagoalik and then Mr. Ahenakew, Chief Ahenakew.

MR. JOHN AMAGOALIK: Thank you, Mr. Chairman. We have tabled a document. I think most of you have it in front of you. It is coming from the Assembly of First Nations, the Inuit Committee on National Issues and the Native Council of Canada. It is -- if we had time -- if we had more time this would have been a proposed constitutional accord which we would have wanted to pursue. Now, this is being made in the spirit of the Prime Minister's proposal and I would like to read it into the minutes with the permission of the Chair: "WHEREAS pursuant to the 1983 Constitutional Accord on Aboriginal Rights ..."

THE CHAIRMAN: I think we all have a copy of this. We can put it into the minutes if you want, but I think it would be wiser to state that this is your collective position and get reactions. I don't think we should take ten minutes or 15 to read this at this point, with respect, Mr. Amagoalik.

MR. JOHN AMAGOALIK: Okay, if you are prepared to put it in the minutes and also perhaps spend some time in discussing it that would be fine with me.

THE CHAIRMAN: Well, let's agree that

it will be in the verbatim report of the conference as if it had been read at this point.

I saw this around 2:00 o'clock, if any of you want it read I will reverse my decision and let it be read, but I think -- I think that everyone signifies that that is -- that they are prepared to take -- to say they have read it and perhaps not studied it in detail, but they know the content and if they wish to react to it I will recognize them.

Then I have Chief Ahenakew.

"PROPOSED 1984 CONSTITUTIONAL ACCORD ON THE RIGHTS  
OF THE ABORIGINAL PEOPLES OF CANADA

WHEREAS pursuant to the 1983  
Constitutional Accord on Aboriginal Rights a constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces was held on March 8 and 9, 1984, to which representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories were invited;

AND WHEREAS it was agreed at that conference that certain amendments to the Constitution Act, 1982 would be sought in accordance with section 38 of that Act;

AND WHEREAS that conference had included in its agenda the following matters that directly affect the aboriginal peoples of Canada:

- Equality Rights
- Aboriginal Title, Aboriginal Rights,  
Treaties and Treaty Rights
- Land and Resources
- Aboriginal or Self Government

AND WHEREAS it was agreed in the 1983 Constitutional Accord on Aboriginal Rights that future conferences be held at which constitutional matters that directly affect the aboriginal peoples



of Canada will be discussed;

AND WHEREAS the Senate and House of Commons of Canada and the legislatures of nine provinces that have, in the aggregate, more than fifty per cent of the population of all the provinces have passed resolutions supporting changes to the Constitution of Canada that were the subject of the 1983 Constitutional Accord on Aboriginal Rights; NOW THEREFORE the government of Canada and the provincial governments hereby agree as follows:

1. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, prior to December 31, 1984, a resolution in the form set out in the Schedule to authorize a proclamation to be issued by the Governor General under the great Seal of Canada to amend the Constitution Act, 1982.

2. The Government of Canada and the provincial governments, to the extent that each has jurisdiction, are committed to negotiate treaties respecting self-government with representatives of the aboriginal peoples of Canada. Such negotiations will include the scope, jurisdiction and powers of self-government, and such related matters as fiscal relationship and lands and resources. Such treaties shall be treaties within the meaning of s.35(1).

2(a) Clause 2 shall apply to First Nations

with treaties only to the extent so elected by them.

3. The government of Canada and the provincial governments shall, together with the aboriginal peoples, undertake a review of the current policy requiring that aboriginal people surrender and extinguish their aboriginal title and right through land claims agreements, or as that policy relates to extinguishment of aboriginal title or rights as a result of being superceded by law, for the purpose of proposing alternatives to surrender and extinguishment, and shall report back to the next First Ministers' Conference with respect to such alternatives.

4. In preparation for the constitutional conferences contemplated by the changes to the Constitution of Canada that were the subject of the 1983 Constitutional Accord on Aboriginal Rights, meetings composed of ministers of the government of Canada and the provincial governments, together with representatives of the aboriginal peoples of Canada and representatives of the governments of the Yukon Territory and the Northwest Territories, shall be convened at least annually by the government of Canada.

5. Nothing in this Accord is intended to preclude, or substitute for, any bilateral or other discussions or agreements between governments and the various aboriginal peoples and, in particular, having regard to the authority of Parliament under

Class 24 of section 91 of the Constitution Act, 1867, and to the special relationship that has existed and continues to exist between the Parliament and government of Canada and the peoples referred to in that Class, this Accord is made without prejudice to any bilateral process that has been or may be established between the government of Canada and those peoples.

6.                    Nothing in this Accord shall be construed so as to affect the interpretation of the Constitution of Canada.

7.                    Nothing in this Accord shall be construed so as to derogate or otherwise diminish the spirit or letter of the 1983 Constitutional Accord which will continue to have full force and effect.

#### Schedule

35.2(1) The government of Canada and the provincial governments, to the extent that each has jurisdiction, are committed to negotiating and concluding treaties with the aboriginal peoples for the specific implementation in the various regions of Canada of the rights of the aboriginal peoples, including self-government.

(2)                    Such treaties shall be treaties within the meaning of section 35(1).

(3)                    Subsections (1) and (2) shall apply to First Nations with treaties, only to the extent so elected by them."

MR. DAVID AHENAKEW: Thank you, Mr. Prime Minister. This may be the last time I will have anything to say to you and I feel kind of sad about that. Nevertheless, I am sure another great Canadian will come forward to be a prime minister, that we can continue to dialogue with.

When we left here last year we had the impression that all participants had agreed to step through the door that had been opened. When we listened to your opening remarks yesterday, Prime Minister, we were encouraged to believe that Canada was indeed prepared to take one more step forward, however tentative that tentative step -- however tentative that step may have been.

We believed and when we heard from the provinces of Ontario, New Brunswick and Manitoba that the provinces may be willing to join with us, with the federal government in taking that step. I want to thank Premiers Davis, Hatfield and Pawley for the fine work that they have done here.

However, you have reached the point where we are forced to ask is everyone ready to accept change? Are we capable, are you capable of abandoning the status quo? You continue to tell us that the options we put forward are the problem, rather than potential solutions. You continue to propose little more than program devolution, seeking our participation in administering our own misery. You continue to create new strawmen as excuses for refusing to move forward. That is unfortunate for them, for us and for all Canadians.



You said yesterday, Prime Minister, and I quote, "Willpower, patience and determination to sustain themselves in a hostile social environment have enabled the aboriginal groups to persevere in their quest for the justice, respect and consideration they have been denied since the dawn of our Canadian history." Obviously much of the environment is still hostile. Just as obviously the First Nations returned the willpower and the determination. In fact, each year our willpower and determination grows stronger. We will continue on the path that our elders, our chiefs and our nations have set for us. We will continue to implement Indian First Nations self-government. We will continue to press for specific entrenchment of aboriginal title in the First Nations self-government. We will continue to attempt to persuade many of the provinces to move away from their obstructionist tactics. We will continue to pursue constitutional recognition and entrenchment of our international treaties. We will continue to insist on recognition of a distinct order of First Nations government. We will continue to resist and insist that our rights to self-government do not flow from delegated powers.

We have travelled a long, hard road to get to this point. We will not give up simply because the road ahead promises to be long and hard.

In 1969 we had no allies. Now we have a few powerful allies and if the others are not ready

we will move forward with those who have this vision, the courage and the potential and the political will to lead our Nations. Our children, our grandchildren will never forgive us if we don't.

To you, Prime Minister, and I give you "E" for "effort" right down the line, to those provinces who have tried to find these potential solutions I say thank you and to Canadians I say God bless us in the future.

THE CHAIRMAN: Thank you, Chief Ahenakew. I am told there is a text which will be made available in five minutes, so it is perhaps worth waiting for.

Mr. Bruyere, are you asking for the floor?

Mr. Daniels, or Mr. Sinclair?

MR. LOUIS BRUYERE: I guess as Chief Ahenakew said, this may be the last time we will be talking to you, but hopefully only in this forum, as you have said yourself that this will probably be it.

One of the things I would like to say is that when we talk about Metis rights and in terms of where I come from, I come from what is called a Metis or halfbreed reserve which was in relation to Treaty 3 at one point in time and in 1967 became a federal Indian reserve, but it was always referred to as the halfbreed reserve, and the halfbreed in relation to Treaty 3 and that is where I happen to be born. So in a sense of what we are talking about this was done in 1873, so there is that precedent there for the governments

to deal with the halfbreed people or the Metis people in the sense that we have been talking about all along as from the Native Council of Canada's point of view.

We want to make sure that the Metis people across Canada are dealt with in terms of the constitutional process. There has been a heck of a lot happen over this past year, but I think what has happened now is that this process once we leave this room it has to start almost immediately again so that we can get back to the issues in terms of what we really want to get down to. I mean I don't think anybody around the room any more believes that they are going to be the constitutional writers in the country in the sense of putting books forward an inch thick, but we have to get back to what we came for here and that was to entrench rights in the constitution. We all realize that we are not going to be constitutional writers, but we have to get them rights in there in the sense that the aboriginal people have the right too and then we know that governments have to realize once we get that right in there that they are going to sit down with us and we are going to have to sit down with them, federal and provincial and work this process out, but we can't continue to keep working and putting our head against the block and saying you know this is what we want, because we have been doing that all year long in this whole process and it hasn't been getting us anywhere as is witnessed here these last two days in the sense of entrenching our rights in that Constitution. We have to get

back to the whole process of why we started this and entrench our rights in the Constitution and then work out the details. I know everybody says they are scared of that. They are scared of accepting something in that Constitution that they don't know what it means, but I believe Premier Hatfield and yourself, sir, have said we have got to get to the job of entrenching our rights. Other Premiers have said it as well, entrench the rights, work out the process later and what we have got to get back to and that is what we have got to come to.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr. Bruyere.  
Mr. Sinclair?

MR. JIM SINCLAIR: Well, I am going to have a short closing remark, but I want Mr. McIvor to speak just before the end of the meeting. He has a presentation to make, I think.

I guess in brief summary I think the meeting was over this afternoon very early when you brought your position on self-government and it was turned down. I think we were just filling in time and making political statements and that bothers me, because again I thought we came here to make constitutional amendments and constitutional changes.

However, I suppose that over the past three years we went through a lot of problems in Saskatchewan, particularly in Saskatchewan, with the development of our people and the political awareness of our people and they began to get disenchanted with the way governments were treating them.



The Constitution has given hope to some of my people and we have agreed to work in good faith in developing a position with this Constitution and people have been waiting patiently.

I think that we are going to reach some problems at the next constitutional meeting when it comes forward and I will tell you one thing, if I am still a leader and still happen to be around I am going to organize those people at the grassroots and make sure they are some place in sight and in view when the next constitutional meeting takes place.

I think my people are going to take some action, because the political leaders could not reach a decision and you know very well what happened in the 1970 FLQ crisis when people took to the streets, governments were in a hurry to call in the Army and the troupes and the police. They were prepared to spend millions of dollars to squash people who wanted jobs and who were after rights and it bothers me when I come into a meeting like this and I find a bunch of leaders, a group of leaders who are not prepared to deal with the rights of the aboriginal peoples, and it bothers me when we have to go home without any new solutions, with is just another offer to come back and do some more negotiating.

I think we said last year and you said last year, "This is not a government constitution,

this is the people's constitution." I am going to rally people, my people in particular that if they want any rights in this Constitution they are going to have to start taking things into their own hands.

I am prepared to do my best, I have always been at the bargaining table and I will be the last person at the bargaining table, but if it comes to the real problems I will also take my place in the front lines where I think I have been in times of severe problems. I have been the leader I said before for 15 years, this may be the last time I will be here. Out of those 15 years I have spent at least five or six of those years in court, because of trying to make government programs that were made by bureaucrats and designed by people who never saw a native community, never alone dealt with native people and tried to deliver those programs to my people and bend the rules to make them work and the minute we bent the rules, myself and plus the other government people, any government person who came out to help us was also dragged into court as a lesson not to break the rules and that is what bothers me, because my people have been oppressed. I said it before, they are not disadvantaged, they are oppressed because it is laws that hold us down and we need a definition of rights to improve our way.

We said that a constitution would provide a framework on which our people could build their future. Now, this Constitution is not building

a framework. It is building a barrier to make sure that the aboriginal people of this country are left out on the outside and are going to continue to be colonized from here on and that I will not stand back and see happen. If I am not back at these meetings I will be back on the street level helping people to organize and put some pressure on the government where it belongs and there will be more radical leaders at this meeting than I am.

--- (Applause)

THE CHAIRMAN: Thank you, Mr. Sinclair.

Mr. Amagoalik.

MR. JOHN AMAGOALIK: If we are going through closing remarks and I am prepared to do that now.

THE CHAIRMAN: Please.

MR. JOHN AMAGOALIK: Everybody keeps saying, everybody around the table, everybody in this room keeps saying that we have failed. Yes, there has been failure, but we haven't failed you have failed.

--- Applause

I am sorry, but the people of Canada have to know who has failed. British Columbia, you have failed. Alberta, you have failed.

--- Applause

Saskatchewan, you have failed. Newfoundland, Yukon Territory you have failed. We haven't failed.

You have failed to agree that aboriginal peoples have the democratic and human right to self-government. You have self-government. You elect your Member of Parliament. You elect your provincial government, you benefit from resource development on your lands. In the Arctic we elect our Member of Parliament as well and we elect our representative to the territorial government. As a matter of fact, my MLA is sitting right next to me, but we don't have responsible government, we



don't have responsible government. We don't have the right to benefit from resource development, from our lands and our resources.

Now, I said you have failed and we have not and the reason why I say that is because we will continue on our land claims negotiations, we will continue that. We will continue to have discussions with the government of Canada on Nunavut. We will continue to have discussions with the province of Quebec for greater autonomy for the Kativik Regional Government. We will begin discussions with the Newfoundland government and the federal government on the land claims and self-government for the Inuit of Labrador. So we don't want people -- we don't want the people of Canada to have the impression that we are leaving this conference having failed totally and beat, because that is not the case. The world continues tomorrow and we will continue these negotiations and discussions that I have identified.

That is all I have to say for now. I will expect to see you again before you leave office, so I expect to continue our discussions outside this room.

I would like Zebedee to conclude our closing remarks.

MR. ZEBEDEE NUNGAK: Yes, very briefly, Mr. Prime Minister. It is disappointing at a meeting such as this to stand up the way we

are going to with practically nothing accomplished, but I have to point out that on behalf of the people we are speaking for, the Inuit of Canada, we cannot join the doomsayers and the dire predictors of failure. We will inevitably, as we have always done, dust ourselves off, pick ourselves up and follow the course that John, my colleague, has just described.

The onus is on you, the governments, to ensure that in the future failures or lack of successes such as this do not happen too often. I have made the point and Mr. Jim Sinclair just echoed it that our people have a lot of patience, but there is a breaking point somewhere that we do not want to reach. We have done our best to uphold the tasks that have been given to us. We have tried to carry ourselves in a manner that is honourable before you, but as I say there is a breaking point that we want to avoid. We have always been taking an approach that tries to prevent the degeneration of this process and this is one battle where practically nothing was accomplished, but the war is still on and I want to express to the people of Canada and to the governments that we are not finished. We have an unfinished task and that all of us should be motivated, all of us should take the courage and the right stock in ourselves to do what we have to do and to do it in an honourable way.

Thank you.

THE CHAIRMAN: Thank you, Mr. Nungak. Mr. Erasmus, please.

MR. GEORGES ERASMUS: I have only a few words to add to what people are saying. I have been sitting here for two days and I have been trying to figure out why the provinces didn't jump immediately at the proposal that the federal government put forth, particularly where it dealt with self-government because I think the Justice Minister yesterday clarified exactly what it was. It was a principle of self-government, totally non-enforceable, it was something that was discussed last year and rejected by the First Nations and other aboriginal people and again this year we tried to bring people further along, but for the life of me I cannot understand why the provinces didn't go for it, it would have given them a complete veto. We would have had in a constitution paper recognition of self-government. We would not have been able to set up a single government in the country without the provinces agreeing. They would have to have had to negotiate jurisdiction, powers, fiscal relations, et cetera, et cetera. I wonder, I mean to me when I envisaged the worst possible way that self-government could have been put into the Constitution that would probably have been the wording I would have arrived at myself. Now, if the provinces aren't going to accept that kind of language then what kind of language are you going to accept? You would have had total control of the process.

There would have been no aboriginal institutions in any province unless the province itself in that area would have said yes, that goes ahead and on these conditions and these kinds of powers, these are the people you have control of, if you are not going to agree with self-government under those conditions what kind of conditions are you going to agree to self-government to. For the life of me I don't know. I heard the Premiers but they never really dealt with the proposal. They had total control of it. What were they scared of? The only conclusion I can come to is that the goodwill that supposedly is there about the recognition of self-government in reality is not there. I think Premier Hatfield is absolutely dead on correct. That is my thoughts, Prime Minister, thank you.

THE CHAIRMAN: Thank you, Mr. Erasmus. We are still waiting for the text to be distributed. How long do we have to wait?

It should be here momentarily. Maybe I should make my concluding remarks and then just re-open it for that purpose. Mr. McIvor.

MR. DON McIVOR: Mr. Prime Minister, while we are probably waiting for the paper to come through and not necessarily knowing if we have got anything, I know there has been a lot of dissatisfaction in these last two days but I don't think like one of the representatives said that that is the end of the world. I think we can keep on fighting. I think we



take the last few words that you said in your statement that as long as we have a sure foundation and that we are standing properly that we can do something and I don't think the end of the world has come because some people in this conference have not been able to justify that we have self-government in the Constitution.

I think, Mr. Prime Minister, that it is only appropriate at this time that Metis people in the past and up to now have never wanted to put something in front of people for a presentation prior to any negotiations. We have restrained ourselves from doing that, although we did not know that we might end up with nothing. Our trust with governments are going to continue and I would like to make a presentation to you now. I would like to ask my vice-president, Janet Kertzen, to go to your end of the table, and with your permission, if you are not reluctant, I would like to ask you to stand up. I would like to give you the Order, name you to the Order of the Chasse of the Manitoba Metis Federation, because we have not made it to very many people. We have given it to people that have been great contributors to this country and to the Metis cause. I think we gave it to one of the people -- one of the people that we gave it to was the Governor-General of Canada, Mr. Edward Shreyer and you are the most, I guess to him, another distinguished person that has worked towards and

I think you have done that -- in a very hard way here to convince people that something had to be done for Metis people and that is the reason why we would like to present this chasse at this time.

--- Applause

Mr. Prime

Minister, to finalize my presentation, I know there has been a lot of question on equality here, but my wife has told me and I have been branded for many political stripes so I can't talk of whether I am a New Democrat or a Conservative or a Liberal, but I can certainly say that my wife has said to tell you that she has probably thought that you were one of the best and outstanding leaders of this country.

To finish everything, I would like to say -- I would like to say that I would like to have you use that Chasse in Batoche in in '85 and we would hope that you would be there.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr.

McIvor and thank you on behalf of yourself, your wife and your people. I deem this an honour. I certainly do hope to go to Batoche for those celebrations. If I go I hope I will bring my own children. For all I know I may meet relatives there, because a lot of Canadians do have mixed blood, so thank you, but thank you particularly for your encouraging notes on the conference. You said it wasn't the end of the world and I think

we have found that sentiment expressed around the table even with those who are disappointed and bitterly disappointed.

Mr. Amagoalik pointed out that the world would go on and that Nunavut discussions would proceed, land claims would proceed. We could add that just as the James Bay negotiations and the Yukon and the western Arctic negotiations have proceeded and brought in a measure of fruition, other things will proceed. In our case we are determined to proceed with the framework legislation for self-government. We are prepared to proceed with certainly all and every of the native groups, the aboriginal groups, and with whatever provinces want to discuss with us but we are, as I said yesterday, determined to come forth with this framework legislation so let us not be too bitter because we haven't succeeded in constitutionalizing anything in these two days.

Premier Devine not only had a list of subjects with which he wants to proceed in terms of making progress, but I think it was he who yesterday reminded us that it took some 56 years for even the white leaders of government to agree on patriating their own constitution for gosh sakes, so I would say that no one should be too bitterly disappointed.

I think it is Mr. Sinclair who indicated that there is a lot of fight left in all of you and I suppose there is in all of us, that

is Canada. We progress with goodwill and by detour sometimes. I have been at the end of constitutional conferences which I have chaired. I have been as bitterly disappointed as some of you are perhaps today, but that didn't prevent us, all of us, from arriving at some goal which wasn't too far removed from what we had hoped to get at the outset and as I draw this to a conclusion I just want to say continue the fight and as one who will leave at least the fight for this part of it I would leave you with the wish that I think the Chinese interpret as a curse, but I don't "May you live in interesting times". I am sure you will from today's and yesterday's discussions.

I now have, I think the text.

Mr. MacGuigan, maybe you would want to report on it very briefly.

HON. MARK MacGUIGAN: Mr. Prime Minister I think I can do that fairly briefly since the text is now -- I think I can report fairly briefly since the text is in front of us. There were various possibilities naturally as to where any amendment should be put as well as what should be in the amendment, but since there was a strong preference on the part of the aboriginal peoples that the amendment be to Section 35, it was decided that the best course would be to amend the new definition that we adopted last year, the incompleteness of which gave rise to certain concerns and we have, therefore, added at the end of



that the words which are underlined in the text before you so I will just read the whole thing from top to bottom so that it will be in the record. This will be Section 35, subsection (4) as amended: "Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons, and this guarantee of equality applies in respect of all other rights, and all freedoms, of the aboriginal peoples of Canada."

I think this achieves exactly what we want to achieve in terms of the guarantee in all situations of sexual equality. I think it does not do anything beyond that and those were the two goals that we set out to achieve.

I should say since there were not a large number of Attorneys-General at the meeting, we did not try to arrive at any political decision as to whether or not this should be incorporated into the Constitution. Several of the public servants there made a point of saying that they had no mandate to discuss that question and so we present you with an agreed text, agreed by all of the governments, by all of the aboriginal peoples and the remaining question is as to the political willingness to put it into the Constitution.

HON. RICHARD HATFIELD: Yes.

HON. GARDE GARDOM: And the aboriginal native women were satisfied?

HON. MARK MacGUIGAN: Yes. The native women as well, yes.

HON. GARDE GARDOM: All of them?

HON. MARK MacGUIGAN: All of them. They can speak for themselves here, but they all agreed upstairs at the officials meeting.

THE CHAIRMAN: Well, let us begin with the aboriginal peoples. Do you want to decide on this now and can we make up our minds that quickly; if so and if you agree then I will move to the other delegations, but if you want to think this over and consult amongst yourselves and talk to your women and your lawyers, then I won't call a decision now.

A SPEAKER: Agreed.

THE CHAIRMAN: We have agreement of the NCC.

A SPEAKER: Agreed.

THE CHAIRMAN: We have agreement of the ICNI.

A SPEAKER: I just want to say our officials were up there, but they could not agree on our behalf, but we agree now.

THE CHAIRMAN: Do the women in the room agree?

MS. MARILYN KANE: We agree.

THE CHAIRMAN: You agree.

MS. MARILYN KANE: (Nodding in the affirmative)

THE CHAIRMAN: What about the AFN?

MR. DAVID AHENAKEW: We must discuss this further. I suggest this not be adopted certainly not on behalf of the First Nations. There are serious implications and serious deficiencies in that section. We support sexual equality, let there be no mistake about that, but the way this is written can effect Section 35(1) and we want to make absolutely certain that never again are our Indian women going to have that type of discrimination and prejudices that they have been living under for the last century.

LE PRESIDENT: Eh bien, je pense que ça règle la question, si nous n'avons pas l'accord de tous les groupes aboriginaux, les groupes autochtones, sans doute vous voudriez que je suspende une décision jusqu'à ce qu'il y ait d'autres consultations.

What do you suggest, Chief Ahenakew? Do you want to set in motion some process whereby if you can't agree to this text you could let us know in a few weeks and we could canvass the others?

MR. DAVID AHENAKEW: I will let you know within three weeks, Mr. Prime Minister. I also want to make it clear at this particular moment that this whole question of sexual equality is one which all of you have seen it in this country and certainly in this room. It has divided me and my wife if you will, man and woman. A great injustice, a great emotional turmoil and destruction of the people. We want to make absolutely certain that never again is that going to happen. We also want to make it very clear that citizenship henceforth will be the sole prerogative and jurisdiction of the First Nations so never again will we have to spend a day and a half discussing this issue.

THE CHAIRMAN: All right, Mr. Sanderson and then I think I will wind up the proceedings.

MR. SOL SANDERSON: Mr. Prime Minister, we just want to read for the record our concern on the clause. Section 35(4) is in its present form arguably implies that Section 35(1) rights are guaranteed, not just recognized and affirmed. The proposed draft makes it clear that only equality of men and women before the law is guaranteed, not aboriginal and treaty rights themselves. The new Section 35(1) may therefore seriously weaken the impact of Section 35 in its present form.



To repeat, Section 35(1) and Section 35(4) together, rights may well be guaranteed, the new Section 35(4) in no way suggests 35(1) rights are guaranteed.

THE CHAIRMAN: Well, I think this indicates that we will have to stand our decision on this and there will be further consultation. It is possible that we will come up with agreement and if so we will proceed with them. If not, it will be part certainly of the ongoing discussions which we have agreed to have on the other subjects I have mentioned, but I do want to say that Mr. Munro, the responsible minister, will be out immediately within a week or two to begin moving forward on the consultations regarding framework legislation for self-government. Penner recommended that, that the minister meet with the provinces and the Indian leaders. Mr. Munro will begin his consultations and I believe many other leaders of provincial governments have indicated that within their own area they wanted to move as they could on the concept of self-government so I do not want to end this conference on another note and repetition of my wish "May you all live in interesting times". Puissiez-vous vivre des années intéressantes!

The conference is adjourned until another year and another Chairman.

--- Adjournment at 5:50 p.m./17h50





FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

Ottawa

March 8 and 9, 1984

AGENDA OF THE CONFERENCE

1. Equality Rights
2. Aboriginal Title and Aboriginal Rights, Treaties and Treaty Rights.
3. Land and Resources
4. Aboriginal or Self-Government





CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

Ottawa

Les 8 et 9 mars 1984

ORDRE DU JOUR DE LA CONFERENCE

1. Droits à l'égalité
2. Le titre d'autochtone, les droits ancestraux, les traités et les droits issus de traités
3. Terres et ressources
4. Gouvernement autochtone ou autonome



FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

Ottawa

March 8 and 9, 1984

List of First Ministers, Ministers and Spokespersons

CANADA

The Right Hon. Pierre Elliott Trudeau  
Prime Minister

The Hon. John Carr Munro  
Minister of Indian Affairs and  
Northern Development

The Hon. Horace Andrew Olson  
Leader of the Government in the Senate

The Hon. Herbert Eser Gray  
President of the Treasury Board

The Hon. Hazen Robert Argue  
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Minister of Justice and  
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Minister Responsible for the Status of Women

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The Hon. Charles L. Caccia  
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The Hon. Serge Joyal  
Secretary of State of Canada



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Minister of Intergovernmental Affairs

The Hon. Roy McMurtry  
Attorney General

The Hon. Norman Sterling  
Provincial Secretary for Resources Development

Donna Phillips  
Ontario Native Women's Association

QUEBEC

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Premier

Pierre-Marc Johnson  
Minister of Intergovernmental Affairs

Denis Lazure  
Minister responsible for Citizen Relations

Bibiane Courtois  
President  
Native Women's Association

Max Gros-Louis  
Grand Chief  
Loretteville Hurons

Billy Two Rivers  
Kahnawake Band Council Chief

Mary Two-Axe Early  
President  
Equal Rights for Indian Women

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The Hon. Ron Giffin  
Attorney General and  
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The Hon. Edmund Morris  
Minister of Social Services and  
Minister of Native Affairs

NEW BRUNSWICK

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Premier

Mavis Goeres  
New Brunswick Native Indian Women's Council

Sandra Lovelace

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Premier

The Hon. Roland Penner  
Attorney-General

The Hon. Jerry Storie  
Minister of Northern Affairs

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The Hon. Garde B. Gardom  
Minister of Intergovernmental Relations

The Hon. Brian R.D. Smith  
Attorney General

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The Hon. James M. Lee  
Premier

The Hon. George R. McMahon  
Minister of Justice

The Hon. Prowse Chappell  
Minister of Agriculture

The Hon. Fred Driscoll  
Minister of Energy and Forestry  
and Minister responsible for Native Affairs

SASKATCHEWAN

The Hon. Grant Devine  
Premier

The Hon. J. Gary Lane  
Minister of Justice

The Hon. Sid Dutchak  
Minister responsible for the Indian and  
Native Affairs Secretariat

ALBERTA

The Hon. Peter Lougheed  
Premier

The Hon. James D. Horsman  
Minister of Federal and Intergovernmental Affairs

The Hon. Milt Pahl  
Minister Responsible for Native Affairs

NEWFOUNDLAND

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Premier

The Hon. William Marshall  
President of the Executive Council and  
Minister responsible for the Petroleum Directorate

The Hon. G.R. Ottenheimer  
Minister of Justice

The Hon. D.J. Goudie  
Minister of Rural, Agricultural  
and Northern Development

YUKON

The Hon. C.W. Pearson  
Government Leader

The Hon. Clarke Ashley  
Minister of Justice



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The Hon. Richard W. Nerysoo  
Government Leader

The Hon. Dennis Patterson  
Minister  
Aboriginal Rights & Constitutional Development

The Hon. N.J. Cournoyea  
Minister  
Renewable Resources

The Hon. Bruce McLaughlin  
Minister  
Social Services and Health

The Hon. Gordon Wray  
Minister  
Public Works

The Hon. Tom Butters  
Minister of Finance

ASSEMBLY OF FIRST NATIONS

David Ahenakew

Harold Cardinal

Georges Erasmus

Joe Mathias

Gary Potts

Rod Robinson

Sol Sanderson

INUIT COMMITTEE ON NATIONAL ISSUES

John Amagoalik  
Co-Chairman  
Inuit Committee on National Issues

Zebedee Nungak  
Acting Co-Chairman  
Inuit Committee on National Issues

Mary Simon  
President  
Makivik Corporation

METIS NATIONAL COUNCIL

Jim Sinclair  
Metis National Council Executive Committee

Don McIvor  
Metis National Council Executive Committee

Sam Sinclair  
Metis National Council Executive Committee  
Alberta

Fred House  
Metis National Council Executive Committee  
British Columbia

Patrick (Paddy) McGuire Sr.  
Metis National Council Executive Committee  
Ontario

Clem Chartier  
Metis National Council Constitution Committee

Elmer Ghostkeeper  
Metis National Council Constitution Committee  
Alberta Federation of Metis  
Settlement Associations

NATIVE COUNCIL OF CANADA

Louis (Smokey) Bruyère  
President  
Native Council of Canada

Harry Daniels  
Vice President  
Native Council of Canada

Dwight A. Dorey  
Vice President  
Native Council of Canada

Gary Gould  
President  
New Brunswick Association of Metis  
& Non-Status Indians

Marilyn Kane  
Vice President  
Native Women's Association of Canada

CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS  
CONSTITUTIONNELLES INTÉRESSANT LES AUTOCHTONES

Ottawa

Les 8 et 9 mars 1984

Liste des Premiers ministres, ministres et porte-parole

CANADA

Le très honorable Pierre Elliott Trudeau  
Premier ministre

L'honorable John Carr Munro  
Ministre des Affaires indiennes  
et du Nord canadien

L'honorable Horace Andrew Olson  
Leader du gouvernement au Sénat

L'honorable Herbert Eser Gray  
Président du conseil du Trésor

L'honorable Hazen Robert Argue  
Ministre d'État (Commission canadienne du blé)

L'honorable Mark MacGuigan  
Ministre de la Justice et  
procureur général du Canada

L'honorable Robert P. Kaplan  
Solliciteur général du Canada

L'honorable Judy Erola  
Ministre de la Consommation et des Corporations  
Ministre responsable de la condition féminine

L'honorable Jacob Austin  
Ministre d'État chargé du Développement social

L'honorable Charles L. Caccia  
Ministre de l'Environnement

L'honorable Serge Joyal  
Secrétaire d'État du Canada



ONTARIO

L'honorable William G. Davis  
Premier ministre

L'honorable Thomas L. Wells  
Ministre des Affaires intergouvernementales

L'honorable Roy McMurtry  
Procureur général

L'honorable Norman Sterling  
Secrétaire provincial au développement des ressources

QUÉBEC

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Premier ministre

M. Pierre-Marc Johnson  
Ministre de la Justice et ministre  
des Affaires intergouvernementales canadiennes

M. Denis Lazure  
Ministre délégué aux relations avec les citoyens

Bibiane Courtois  
Présidente de l'Association des femmes autochtones

Max Gros-Louis  
Grand Chef huron de Loretteville

Billy Two Rivers  
Chef du Conseil de bande de Kahnawake

Mary Two-Axe Early  
Présidente de Equal Rights for Indian Women

NOUVELLE-ÉCOSSE

L'honorable John M. Buchanan  
Premier ministre

L'honorable Ron Giffin  
Procureur général et secrétaire provincial

L'honorable Edmund Morris  
Ministre des Services sociaux  
et ministre des Affaires autochtones

NOUVEAU-BRUNSWICK

L'honorable Richard Hatfield  
Premier ministre

Mavis Goeres  
Conseil des femmes autochtones du Nouveau-Brunswick

Sandra Lovelace

MANITOBA

L'honorable Howard Pawley  
Premier ministre

L'honorable Roland Penner  
Procureur général

L'honorable Jerry Storie  
Ministre des Affaires du Nord

COLOMBIE-BRITANNIQUE

L'honorable W.R. Bennett  
Premier ministre

L'honorable Garde B. Gardom  
Ministre des Relations intergouvernementales

L'honorable Brian R.D. Smith  
Procureur général

ILE-DU-PRINCE-ÉDOUARD

L'honorable James M. Lee  
Premier ministre

L'honorable George R. McMahon  
Ministre de la Justice

L'honorable Prowse Chappell  
Ministre de l'Agriculture

L'honorable Fred Driscoll .  
Ministre de l'Énergie et des Forêts  
et ministre responsable des affaires autochtones

SASKATCHEWAN

L'honorable Grant Devine  
Premier ministre

L'honorable J. Gary Lane  
Ministre de la Justice

L'honorable Sid Dutchak  
Ministre responsable du Secrétariat  
des affaires indiennes et autochtones

ALBERTA

L'honorable Peter Lougheed  
Premier ministre

L'honorable James D. Horsman  
Ministre des Affaires fédérales et intergouvernementales

L'honorable Milt Pahl  
Ministre responsable des affaires autochtones

TERRE-NEUVE

L'honorable A. Brian Peckford  
Premier ministre

L'honorable William Marshall  
Président du Conseil exécutif et  
ministre responsable de la Direction du pétrole

L'honorable G.R. Ottenheimer  
Ministre de la Justice

L'honorable D.J. Goudie  
Ministre du Développement rural, agricole et du Nord

YUKON

L'honorable C.W. Pearson  
Leader du gouvernement

L'honorable Clarke Ashley  
Ministre de la Justice



TERRITOIRES DU NORD-OUEST

L'honorable Richard W. Nerysoo  
Leader du gouvernement

L'honorable Dennis Patterson  
Ministre  
Droits des autochtones et Développement constitutionnel

L'honorable N.J. Cournoyea  
Ministre  
Ressources renouvelables

L'honorable Bruce McLaughlin  
Ministre  
Services sociaux et Santé

L'honorable Gordon Wray  
Ministre  
Travaux publics

L'honorable Tom Butters  
Ministre des Finances

ASSEMBLÉE DES PREMIÈRES NATIONS

David Ahenakew

Harold Cardinal

Georges Erasmus

Joe Mathias

Gary Potts

Rod Robinson

Sol Sanderson

COMITÉ INUIT SUR LES AFFAIRES NATIONALES

John Amagoalik  
Coprésident  
Comité inuit sur les affaires nationales

Zebedee Nungak  
Coprésident intérimaire  
Comité inuit sur les affaires nationales

Mary Simon  
Président  
Société Makivik

RALLIEMENT NATIONAL DES MÉTIS

Jim Sinclair  
Comité exécutif du Ralliement national des Métis  
Saskatchewan

Don McIvor  
Comité exécutif du Ralliement national des Métis  
Manitoba

Sam Sinclair  
Comité exécutif du Ralliement national des Métis  
Alberta

Fred House  
Comité exécutif du Ralliement national des Métis  
Colombie-Britannique

Patrick (Paddy) McGuire père  
Comité exécutif du Ralliement national des Métis  
Ontario

Clem Chartier  
Comité constitutionnel du Ralliement national des Métis  
Saskatchewan

Elmer Ghostkeeper  
Comité constitutionnel du Ralliement national des Métis  
Fédération des associations des établissements métis  
de l'Alberta

CONSEIL DES AUTOCHTONES DU CANADA

Louis (Smokey) Bruyère  
Président  
Conseil des autochtones du Canada

Harry W. Daniels  
Vice-président  
Conseil des autochtones du Canada

Dwight A. Dorey  
Vice-président  
Conseil des autochtones du Canada

Gary Gould  
Président  
Association des Métis et des Indiens non inscrits  
du Nouveau-Brunswick

Marlyn Kane  
Vice-présidente  
Association des femmes autochtones du Canada





